

AMENDED #1 AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Thursday, January 12, 2012

SUBJECT	DESCRIPTION	PRESENTER
	Welcome and Introduction	Chairman Siddoway
<u>RS20881</u>	Relating to provisions governing the Idaho Wheat Commission	Senator Corder
	Distribution of Rules for Review	Vice Chair Smyser

*If you have written testimony, please provide
a copy to the Committee Secretary to ensure
accuracy of records.*

COMMITTEE MEMBERS

Chairman Siddoway
Vice Chairman Smyser
Sen Corder
Sen Pearce
Sen Hammond

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Christy Stansell
Room: WW50
Phone: (208) 332-1330
email: cstanselli@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, January 12, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Nuxoll, Bock, and Schmidt

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman Siddoway called the meeting to order at 8:00.

Chairman Siddoway introduced Christy Stansell, the Committee Secretary; Tess Warzyn, the Committee Page; and Eric Livermore, the Committee Intern.

RS 20881 **Chairman Siddoway** introduced **Senator Corder** to present RS 20881. This legislation contains revisions designed to modernize and clarify the provisions governing the Idaho Wheat Commission. Language put in place when the Commission was established is no longer applicable or narrowly addressed the conditions at that time. Clarifications in the legislation include the process for removing a Commission member, a reference to soliciting donations, the process for calling a meeting, and providing additional authority over the rate assessed for wheat production in the state of Idaho. **Senator Corder** emphasized that it is the grain growers themselves who are requesting to have their cap increased to five cents from two cents.

MOTION: **Senator Hammond** moved, seconded by **Senator Nuxoll** to print RS 20881. The motion carried by voice vote.

Chairman Siddoway introduced **Vice Chairman Smyser** to assign and distribute the Rules proposals to Committee Members. **Vice Chairman Smyser** noted that the Rule Books were provided individually to each Committee Member on Wednesday, along with a list of assignments. The Chairman and Secretary will work on the Agendas for the presentation and discussion of these Rules which will begin Thursday, January 19. **Vice Chairman Smyser** thanked **Laura Johnson** from the Idaho State Department of Agriculture for providing a handout summarizing each of the ISDA rule proposals.

Chairman Siddoway announced the Committee, and all Senators, are invited to attend the Idaho State Department of Agriculture annual briefing and breakfast at the ISDA office next Tuesday, January 17th, in place of the regularly scheduled Agricultural Affairs Committee Meeting. An invitation is in each Committee Members' folder. **Chairman Siddoway** asked that Committee Members RSVP to Secretary Christy by Friday, January 13.

ADJOURN: **Vice Chairman Smyser** moved, seconded by **Senator Nuxoll**, to adjourn. **Chairman Siddoway** adjourned the meeting at 8:10.

Senator Siddoway
Chairman

Christy Stansell
Secretary

AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Thursday, January 19, 2012

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes of January 12, 2012	Vice Chair Smyser/ Senator Nuxoll
RS20767C3	Relating to simplification of the Commercial Feed Law	Lloyd Knight
02-0602-1101	Rules pertaining to the Idaho Commercial Feed Law	Mike Cooper
02-0612-1101	Rules pertaining to the Idaho Fertilizer Law	Mike Cooper
02-0630-1101	Rules under the Idaho Bee Inspection Law	Mike Cooper
02-0620-1101	Rules Governing Grape Planting Stock	Mike Cooper
02-0641-1101	Rules pertaining to the Idaho Soil and Plant Amendment Act of 2001	Mike Cooper
02-0633-1101	Organic Food Product Rules	Brandon Lamb

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Vick
Vice Chairman Smyser	Sen Nuxoll
Sen Corder	Sen Bock
Sen Pearce	Sen Schmidt
Sen Hammond	

COMMITTEE SECRETARY

Christy Stansell
Room: WW50
Phone: (208) 332-1330
email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, January 19, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Bock, and Schmidt

ABSENT/ EXCUSED: Senator Nuxoll

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Siddoway** called the meeting to order at 8:03 a.m.

MOTION: **Vice Chairman Smyser** moved, seconded by **Senator Vick**, to approve the minutes from January 12, 2012. The motion carried by **voice vote**.

RS 20767C3 **Chairman Siddoway** introduced **Lloyd Knight**, Administrator, Division of Plant Industries, Idaho State Department of Agriculture (ISDA), who outlined changes to the Commercial Feed Law. **Mr. Knight** indicated the ISDA has been working on changes for a year now with much outreach and research with industry stakeholders. The amendment to the Idaho Code would revise definitions and remove a definition for tonnage-only distributor; revise provisions relating to registration, to provide for the review of labels, to remove provisions relating to Idaho registrants and Idaho tonnage-only distributors and to provide a correct code reference. The amendment relating to inspection fees and reports would also provide correct citations to the federal Food, Drug and Cosmetic Act; provide for separate notices for each inspection, to provide that notice shall not be required for each entry made during the period covered by the inspection, to provide for receipts relating to any sample or samples taken in the course of an inspection and to provide a correct code reference. **Mr. Knight** indicated the proposal will provide the agency the ability to prioritize and be held accountable to ensure timely response for inspections and reviews.

Chairman Siddoway said some Committee members have been contacted by a national organization that expressed concerns that Idaho is moving in a different direction with its requirements, moving away from tonnage reports while other states are moving toward tonnage reports. **Mr. Knight** replied that his office has also been contacted by the national organization that raises the point of consistency among the states; however, the manufacturers and distributors his office met with demonstrate that Idaho is different than other states in many respects, and that tonnage reports have become cumbersome.

Senator Corder asked how many states in the country have feed laws and whether they operate with tonnage reports or registration. **Mr. Knight** replied that nearly all states have regulations regarding Feed Laws, but each state is different, and that only about a dozen states are working under the model the national organization is suggesting, stating that to have every state operate the same way would be impractical because each state has different needs. Idaho is one of a few states that performs detailed label reviews.

Senator Corder asked that when Mr. Knight returns to discuss this proposal further that he bring a report demonstrating the breakdown of Feed Laws from states across the nation that may also demonstrate a causal relationship between the diversity of agricultural commodities produced in the state and the regulation form used.

Senator Pearce asked how the changes would influence and impact cases when people go to big mills to have a supplement or mineral mixed and make their own label. **Mr. Knight** replied this would be a Custom Formula Mix, which would remain exempt.

MOTION: **Senator Corder** moved, seconded by **Senator Pearce**, to print RS 20767C3. The motion carried by **voice vote**.

Chairman Siddoway passed the gavel to **Vice Chairman Smyser** for the Committee's consideration of pending rules.

DOCKET NO: **Vice Chairman Smyser** introduced **Mike Cooper**, Bureau Chief, Division of Plant
02-0602-1101 Industries, Idaho State Department of Agriculture, who outlined a pending rule relating to the Idaho Commercial Feed Law. This rule allows the ISDA to adopt and use the new 2012 version of the Association of American Feed Control Officials (AAFCO) manual, replacing the 2011 edition.

MOTION: **Senator Schmidt** moved, seconded by **Senator Vick**, to adopt Rule No. 02-0602-1101. The motion carried by **voice vote**.

DOCKET NO: **Mr. Cooper** outlined a pending rule relating to Idaho Fertilizer Law. This rule allows
02-0612-1101 the ISDA to adopt and use the 2012 Association of American Plant Food Control Officials (AAPFCO) manual, replacing the 2011 edition. The manual is used daily by staff to review labels and analyze ingredients. The Rule would also replace language outlining enforcement guidelines with civil penalties at the discretion of the Director in accordance with Idaho Code.

Senator Pearce requested further information on how much testing is performed on fertilizer in the State of Idaho. **Mr. Cooper** replied that he doesn't have exact figures today but could get them if necessary. He went on to describe that inspectors screen fertilizers from off the shelves, as well as those directly mixed at mills.

Senator Schmidt asked for clarification on the removal of civil penalties for violations and whether the violation review process would be public. **Mr. Cooper** said it would be a public document as per state law.

Senator Corder asked if the violation penalties guidelines would be similar to what is being replaced in the rule. **Mr. Cooper** said yes, it would.

Senator Vick asked how the document is written and if the process for determining the penalties would be a public process. **Mr. Cooper** replied that the publication is handled within the department and is reviewed by department legal staff and approved by the Director. **Senator Vick** asked to comment that it seems odd that the Department can set their own penalties. **Mr. Cooper** replied that the penalties stay within the guidelines of the law.

MOTION: **Senator Corder** moved, seconded by **Senator Hammond**, to adopt Rule No. 02-0612-1101. The motion carried by **voice vote**.

DOCKET NO: **Mike Cooper** outlined a pending rule relating to the Idaho Bee Inspection Law.
02-0630-1101 This rule reflects updates in the renumbering of the Bee Inspection Law and adds emphasis on which diseases will be inspected.

Vice Chairman Smyser asked if the bee industry has been notified of these changes. **Mr. Cooper** indicated this information was presented at the annual meeting.

Senator Pearce asked if the department has the support of the bee industry. **Mr. Cooper** said there has been no feedback since the annual meeting in December.

Senator Corder asked if there would still be at least a requirement for one annual inspection? **Mr. Cooper** said there is no longer that requirement and that inspections are only done upon complaint or request, or if bees were being transported to another state that still requires it, noting that most western states have ended the requirement, including California who dropped it 10-15 years ago. **Senator Corder** asked if it is a concession in the industry, that they no longer expect to control disease so they are giving up. **Mr. Cooper** replied that it's generally expected in the bee industry that if they're not managing their bees and their diseases appropriately then they won't be in business very long.

Vice Chairman Smyser asked about problems with bee disease in Idaho and the United States. **Mr. Cooper** stated that Colony Collapse Syndrome is a problem and that most bee keepers normally expect a 5-10% loss each year, which in some cases has jumped to 40-50% loss. 100% loss hasn't happened in Idaho but it has in other parts of the country. **Mr. Cooper** says it all depends on what kind of manager the keeper is.

Senator Vick asked if the bee industry is growing or declining in Idaho. **Mr. Cooper** indicated it has declined for a number of years but it has stabilized in the commercial side, with about 90-100 commercial operations in Idaho right now. He noted that hobbyist bee keepers have increased greatly, especially in the Treasure Valley.

MOTION: **Senator Pearce** moved, seconded by **Senator Schmidt**, to adopt Rule No. 02-0630-1101. The motion carried by **voice vote**.

DOCKET NO: **Mike Cooper** outlined a pending rule relating to rules governing Grape Planting Stock. This rule updates and clarifies the requirements for shipping grape planting stock into Idaho. He indicated that the rule has been on the books since 1972 and needs to be updated to reflect current industry practices and to have common regulations for all types of grapes, considering disease issues can be the same in all types of grapes. The new rules were patterned after the rules on the books in Oregon and Washington.

Vice Chairman Smyser asked if the wine associations are in agreement with these rules. **Mr. Cooper** replied yes and they monitored the changes happening in Oregon and Washington and modeled these rule changes after those states.

Chairman Siddoway asked what the common name is for methyl bromide. **Mr. Cooper** replied there are many different brand names for methyl bromide.

MOTION: **Senator Hammond** moved, seconded by **Chairman Siddoway**, to adopt Rule No. 02-0620-1101. The motion carried by **voice vote**.

DOCKET NO: **Mike Cooper** outlined a pending rule relating to the Idaho Soil and Plant Amendment Act of 2001. This rule incorporates by reference the 2012 version of a document and amends labeling requirements. The rule allows the Department to use the American Association of Plant and Food Control Officials (AAPFCO) manual for reference. It also revises the rule to change the content requirements for labeling on some products that are what they are, such as a bag of peas is a bag of peas.

MOTION: **Chairman Siddoway** moved, seconded by **Senator Vick**, to adopt Rule No. 02-0641-1101. The motion carried by **voice vote**.

DOCKET NO: **Vice Chairman Smyser** introduced **Brandon Lamb**, Organic Program Manager, Division of Agricultural Inspections, Idaho State Department of Agriculture, who outlined the pending rule relating to Organic Food Product. This rule eliminates the current certification deadline that is more stringent than the National Organic Program Regulations.

Changes will comply with House Bill 35 that was passed in 2011 and will also allow for more flexibility for producers, inspectors and for increased organic cost-share distributions. The reason for eliminating the fees charged for chemical residue analysis is that it's stricter than the national rule. Mr. Lamb said these proposed changes were presented before the 2011 Organic Advisory Committee and have their support.

Vice Chairman Smyser asked Mr. Lamb what is meant by cost-share analysis. **Mr. Lamb** replied that cost-share under the Farm Bill allows organic producers and processors to be reimbursed 75% of the cost of certification up to \$750.

Senator Schmidt asked if the cost for residue testing is covered. **Mr. Lamb** replied that the cost must be borne by the state of Idaho according to federal law. **Mr. Schmidt** asked for an annual estimated cost to the department. **Mr. Lamb** said approximately \$10,000.

Vice Chairman Smyser asked how many organic farms there are in Idaho. **Mr. Lamb** said there are 225 to 250 in Idaho.

Senator Pearce asked if there is a process by which a constituent could have a product tested, when the product labeled organic came out of China, and find out if it was safe to eat. **Mr. Lamb** replied that national accredited agents and inspectors test all incoming organics.

MOTION: **Chairman Siddoway** moved, seconded by **Senator Hammond**, to adopt Rule No. 02-0633-1101. The motion carried by **voice vote**.

ADJOURN: **Chairman Siddoway** adjourned the meeting at 8:59 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary

AMENDED #2 AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Tuesday, January 24, 2012

NOTE: name correction for RS

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT	Confirmation Hearing for Soil and Water Conservation Commissioner Gerald "Jerry" Trebesch	Gerald "Jerry" Trebesch
GUBERNATORIAL APPOINTMENT	Confirmation Hearing for Soil and Water Conservation Commissioner H. Norman Wright	H. Norman Wright
<u>RS21009</u>	Relating to clarification of provisions governing the Idaho Wheat Commission.	Senator Corder
<u>60-0504-1101</u>	Rules governing allocation of funds to Conservation Districts	Teri Murrison Kristin Magruder
<u>02-0432-1101</u>	Pending Fee Rules governing Poultry Operations	John Bilderback, Dairy and CAFO Programs
<u>02-0430-1101</u>	Rules governing Nutrient Management	John Bilderback
<u>02-0418-1101</u>	Rules governing CAFO Site Advisory Team	John Bilderback
<u>02-0420-1101</u>	Rules governing Brucellosis	Dr. Bill Barton, Administrator and State Veterinarian
<u>02-0426-1101</u>	Pending Fee Rules governing Livestock Marketing	Dr. Bill Barton

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Vick
Vice Chairman Smyser	Sen Nuxoll
Sen Corder	Sen Bock
Sen Pearce	Sen Schmidt
Sen Hammond	

COMMITTEE SECRETARY

Christy Stansell
Room: WW50
Phone: (208) 332-1330
email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, January 24, 2012
TIME: 8:00 A.M.
PLACE: Room WW53
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Nuxoll, Bock, and Schmidt
ABSENT/EXCUSED: None
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
MINUTES: **Chairman Siddoway** called the meeting to order at 8:00 a.m.

GUBERNATORIAL APPOINTMENT **Chairman Siddoway** introduced **Mr. Gerald "Jerry" Trebesch** of Boise, Idaho, who was appointed to the State Soil and Water Conservation Commission to serve a term commencing on October 4, 2011 and expiring July 1, 2016. **Chairman Siddoway** asked **Mr. Trebesch** to update the Committee and describe his career and qualifications for serving on this Commission.

Mr. Trebesch shared his extensive background in the banking industry, with much of his career relating to agricultural lending, as well as his experience in the cattle business over the past ten years. **Mr. Trebesch** told the Committee of his deep love for agriculture, especially as he was raised on a farm in Montana.

Vice Chairman Smyser thanked **Mr. Trebesch** for his willingness to serve, and asked him what his contribution will be and what kind of changes he'd like to make. **Mr. Trebesch** replied that he would like to expand the home program in a prudent manner and that low rate loans for long periods of time will assist the growers in the State of Idaho. **Senator Corder** commented on his common interest in cattle. **Senator Vick** commented on his common interest in Montana.

Chairman Siddoway thanked **Mr. Trebesch** for his time and excused him from the meeting, indicating his appointment will be voted upon at the Agricultural Affairs Committee meeting on Thursday, January 26, 2012.

GUBERNATORIAL APPOINTMENT **Chairman Siddoway** introduced **Mr. H. Norman Wright** of American Falls, Idaho, who was appointed to the State Soil and Water Conservation Commission to serve a term commencing on October 4, 2011 and expiring July 1, 2012. **Chairman Siddoway** asked **Mr. Trebesch** to update the Committee and describe his career and qualifications for serving on this Commission.

Mr. Wright shared that he has spent much of his life working in agriculturally related professions, including the USDA Farm Service Agency, the soil conservation service, and on a farm as a child, and he currently serves as a Councilman for the City of American Falls, Idaho. **Mr. Wright** emphasized that service to community and his fellow person is very important to him, and that soil and water are life blood and he'd fight hard to keep that going.

Vice Chairman Smyser welcomed his experience and asked what he does in his spare time. **Mr. Wright** shared that he spends time with his wife and children.

Chairman Siddoway thanked **Mr. Wright** for his time and excused him from the meeting, indicating his appointment will be voted upon at the Agricultural Affairs Committee meeting on Thursday, January 26, 2012.

RS 21009

Chairman Siddoway introduced **Senator Corder** to present RS 21009. This legislation contains revisions designed to modernize and clarify the provisions governing the Idaho Wheat Commission. Language put in place when the Commission was established is no longer applicable or narrowly addressed the conditions at that time. Clarifications in the legislation include the process for removing a Commission member, a reference to soliciting donations, the process for calling a meeting, and providing additional authority over the rate assessed for wheat production in the state of Idaho.

Senator Corder indicated that RS 21009 is essentially the same as the RS that this committee sent to print earlier this session, with the exception of a provision outlining responsibilities for the Governor, explaining that this version contains a correction in wording that should have been caught in the first version.

MOTION:

Senator Hammond moved, seconded by **Vice Chairman Smyser**, to print RS 21009. The motion carried by **voice vote**.

Chairman Siddoway passed the gavel to **Vice Chairman Smyser** for the presentation of pending rules.

**DOCKET NO:
60-0504-1101**

Vice Chairman Smyser introduced **Teri Murrison** and **Kristin Magruder** of the Idaho Soil and Water Conservation Commission who outlined the rules governing allocation of funds to Conservation Districts. **Ms. Murrison** introduced herself to the Committee as a new administrator to the Idaho Soil and Water Conservation Commission, and then invited **Kristin Magruder** to present the docket.

Ms. Magruder outlined the pending rule which defines the requirements for the allocation of state general funds to the 50 local conservation districts across the state. The process for this rulemaking was initiated after the 2010 legislative session due to a statutory change in Idaho Code 22-2727. The complete written testimony is available in the Senate Agricultural Affairs Committee Record.

From the temporary rule version, updates to the pending rule include: clarifying the language within some definitions; reducing the required reports from four to three, which was a direct result of district feedback; clarifying funds and services that are eligible to claim for match funding; and, added 'organizations' alongside 'local units of government' as contributing entities for match funding. **Ms. Magruder** added the intent is to find a needed balance between accountability and ease of reporting.

Chairman Siddoway asked what are the fund sources available for the maximum allocation. **Ms. Magruder** answered that sources typically come from their local counties, and that they are also available from other organizations as defined in rule, such as local businesses, but may be anything other than an individual, as long as the funds are designated for general purposes and not a specific project.

MOTION:

Senator Bock moved, seconded by **Senator Nuxoll**, to adopt Rule No. 60-0504-1101. The motion carried by **voice vote**.

Vice Chairman Smyser introduced **John Bilderback**, Dairy and CAFO Programs, Idaho State Department of Agriculture (ISDA), who outlined the Pending Fee Rules governing Poultry Operations. The rule coincides with the Poultry Environmental Control Act passed in April 2011 and authorizes collection fees to support the regulatory oversight program. Negotiated rulemaking was engaged by representatives from ISDA, Department of Environmental Quality (DEQ), Water Resources, Idaho Conservation League, Agricultural industry consultants, Idaho Cattlemen's Association, Soil and Water Commissioners and a few others.

Mr. Bilderback explained more about a few areas that were expanded in this rule: Four additional definitions for "discharge," "manure," "operator," and "runoff." Specific Waste Containment and Nutrient Management Standards was incorporated by reference and an added annual requirement to test the ground water for nitrogen at all poultry operations that fall under this rule.

Senator Vick asked about the meaning of common control for the purposes of permitting and who determines that. **Mr. Bilderback** replied that the Department of Agriculture will determine whether or not two facilities would be considered one. Typically that is if the facilities were using the same systems for something like manure management or waste water management.

Senator Vick asked for clarification on inspections during the process of building the facilities. **Mr. Bilderback** noted that the building would have to comply with all codes in that county in which the facility is built.

Senator Vick asked for further information on how the three cents per square foot of production area assessment would be assessed. **Mr. Bilderback** stated that the Department of Agriculture will assess it annually, noting that facilities will receive 30-days notice if the fee is changed. Right now the fee is set at two cents per square foot, which currently would be adequate to cover the cost of the program.

Senator Pearce asked about the number of facilities that will operate under this rule. **Mr. Bilderback** replied that there is one existing facility, one that finished construction and began operation in September 2011, one that is currently under construction, with the anticipation of two more facilities in the future. **Mr. Bilderback** commented on how **Senator Corder** championed this legislation prior to the industry showing up in Idaho.

Senator Pearce asked about the existence of any opposition or disagreement while this rule was being created. **Mr. Bilderback** indicated that whenever there is negotiated rulemaking, there will probably be people who would say we could do more, and others who say we could do less; however, this rule was a consensus of the negotiated rule process. **Senator Pearce** asked if there were any major hang-ups from the industry itself. **Mr. Bilderback** answered no.

Senator Bock asked for information on the location and size of these facilities. **Mr. Bilderback** said one is in Franklin County, another in Hazelton that began operations in 2011, and another is under construction in Cassia County. The new facilities are expected to house 36,000 birds, while the existing one holds approximately 150,000, but the official numbers won't be in until reports arrive in April. **Senator Bock** asked how that compares to other large facilities in other states. **Mr. Bilderback** said he's not a poultry facilities expert, but he has heard that other facilities that could come to Idaho may house seven (7) million birds with an annual production of about seventy (70) million birds.

MOTION:

Senator Vick moved, seconded by **Senator Hammond**, to adopt Rule No. 02-0432-1101. The motion carried by **voice vote**.

DOCKET NO:
02-0430-1101

John Bilderback outlined a pending rule governing Nutrient Management, which adds the definition of poultry concentrated animal feeding operations and revises the rule to incorporate the most current version (2007) of a document. He indicated that the major change is to be consistent with the Nutrient Act and that there was not any comment after the notice publication.

MOTION:

Senator Hammond moved, seconded by **Chairman Siddoway**, to adopt Rule No. 02-0430-1101. The motion carried by **voice vote**.

DOCKET NO:
02-0418-1101

John Bilderback outlined a pending rule governing the CAFO Site Advisory Team. This rule incorporates new county CAFO definitions and establishes the application fees for the CAFO Site Advisory Team in order to conform with the passage of House Bill No. 150aa passed in April 2011.

Senator Corder asked about the removal of the definition of "animal unit" from this section. **Mr. Bilderback** replied that "animal unit" was a term used a lot "back in the day" but was confusing to an extent, and many of the rules have been changed to be animal-based, so it's just strictly the number of animals and gets away from the mathematical calculation and conversions.

Senator Corder asked about the definition of best management practices and why the rule doesn't indicate who determines what a best management practice is. **Mr. Bilderback** yielded to **Brian Oakey**, Deputy Director of the Idaho State Department of Agriculture, for a response. **Mr. Oakey** replied that because the definition in the statute is relatively clear, it was not necessary to mirror that definition in the rule, and that department will always follow the definition in statute first.

Senator Corder asked that it be noted that there was an error in editing and the words "with in" in the last line of 6D of page 27 of the pending rule book should read "within" so it doesn't change the meaning, and that if the rule is approved, it would be approved with that correction.

Chairman Siddoway asked if a county could make the definition of a CAFO more stringent, could they also make it less stringent? **Mr. Bilderback** replied that no, they cannot make it less stringent, but there is no mandate that they have to request a Siting Team. **Chairman Siddoway** asked for explanation on the benefits or advantages of making well logs available. **Mr. Bilderback** explained that the well logs have always been requested because it helps the Department of Environmental Quality (DEQ) determine environmental risk of having a CAFO on a certain type of ground, such as on soil or on sand or gravel. This information helps geologists.

MOTION:

Senator Nuxoll moved, seconded by **Senator Hammond**, to adopt Rule No. 02-0418-1101. The motion carried by **voice vote**.

DOCKET NO:
02-0420-1101

Chairman Siddoway introduced **Dr. Bill Barton**, Administrator of the Division of Animal Industries for the Idaho State Department of Agriculture, and also serves as State Veterinarian. **Dr. Barton** outlined pending rules governing brucellosis. This rule amends the temporary rule concerning the dates within which cattle that have resided in the Designated Surveillance Area (DSA) must be officially tested for brucellosis. The amendments came about as a change to the federal brucellosis regulations took effect in January 2011 which mandates a requirement for those states that have a reservoir of brucellosis in wildlife in and near their borders, which affects the Yellowstone states of Idaho, Wyoming and Montana.

The federal rule says that states that do have a wildlife reservoir are required to designate a DSA for brucellosis in livestock as well as in wildlife and provide adequate surveillance to assure the USDA, the trading partner states, as well as Idaho producers, that Idaho livestock are brucellosis free. Several trading partner states were dissatisfied with the amount of surveillance being done in Idaho.

Dr. Barton stated that although negotiated rulemaking was not held in regard to this pending rule, numerous discussions were held with members of the Idaho cattle industry, leadership of the Idaho Cattle Association, Idaho Dairy Association and representatives of the Farm Bureau, as well as outreach in DSA's to inform them of the rule and to facilitate compliance with the rule.

There are two new definitions in this rule: Brucellosis Herd Management Plan and Designated Surveillance Area. The rule designates that animals have been in the DSA between January 1 and June 15 of the calendar year are subject to a couple of requirements. One is individual identification of those animals. The other is a brucellosis testing requirement for changing ownership or movement out of the DSA within 30 days prior to movement.

There is also a variance or exception allowed, which goes back to the Brucellosis Herd Management Plan. There are many grazing animals that get into the DSA but do not have the facilities with which to work the cattle prior to leaving. If they had a Brucellosis Herd Management Plan on file with the ISDA, the Department can designate when the cattle would be tested.

Vice Chairman Smyser asked about the concerns of other states had about Idaho surveillance practices. **Dr. Barton** replied that Wyoming and Montana have for years had a testing requirement for animals moving out of their DSA. Idaho has been operating since 2006 by completing a whole herd test every two to three years on herds in the DSA. Other states were not comfortable with that as they don't want to receive a potentially infected animal. As a result, two states, Minnesota and South Dakota, have instituted restrictions on all cattle from Idaho, not just those in the DSAs. Colorado and Nebraska were posed to do the same thing but stopped short. Other states are waiting to see the outcome of this rule.

Senator Bock asked about the variance of stringency of testing and restrictions among the states. **Dr. Barton** replied that this rule will mirror the requirements in both Montana and Wyoming. Change of ownership testing or movement testing out of the DSA will ensure that infected animals are identified at the time of change of ownership or movement, rather than once every three years, as was Idaho's previous protocol. For example, in 2009, there was a possible infected herd in Eastern Idaho. There was not change of ownership or movement testing at that time. Had that testing been in place, those infected animals would have been identified at the time of change of ownership rather than several years later after a large group of cattle had been assembled and then commingled with numerous other producers in the state. This is no more stringent than either Montana or Wyoming.

Senator Pearce asked about the expectations and perimeters of a Brucellosis Herd Management Plan and what will be allowed and not allowed. **Dr. Barton** said the Brucellosis Herd Management Plan is a method that allows the producer to be in compliance with the rule but do it in the fashion that disrupts his production processes the least. This helps producers who have no facility with which to test their cattle. He said the plan can be as simple as: "I'm there. I don't have facilities. When I do, when I pregnancy test my cattle in the fall, I will test them at that point." The plan will be based on the needs of the producers on a quarterly basis with the Department.

Senator Pearce asked if a rancher who would move yearlings in would have a different plan than cow-calf, and if the cattle will be retested every fall. **Dr. Barton** replied that there is an age limitation on this testing requirement, which is intact females eighteen (18) months of age and over. Yearlings, whether heifer or steer, would not need to be tested. Yes, this will be an annual test if they went into the DSA every year. The reason for that is it is known that there are infected elk in the area, so the risk of exposure is continual every year. The goal is to make sure potentially infected animals are not allowed to leave that area and commingle with other animals outside the DSA, especially the risk of shipping a potentially infected animal to one of the trading partner states.

Senator Pearce asked for clarification on the movement of young cattle, who are born in February, March or April, and another 18-19 months goes by, if the testing is enforced or moved by? **Dr. Barton** replied that one of the benefits of a Herd Management Plan is that age factors can be considered, based on the risk factor. It's not strict and hard core, but gives the ability to make appropriate decisions.

Senator Pearce asked for a further break down of the individual identification part of the rule. **Dr. Barton** explained that in all of the orders implemented by trading partner states, the one common factor was that they all required individual identification on cattle that had been within a DSA, which is why individual identification is included in this rule. If heifers eighteen (18) months of age or older are being moved into a DSA, they are required to be brucellosis vaccinated, and therefore will already have been identified. **Dr. Barton** gave an example of how the identification could be helpful tracing the possible origin of a brucellosis infection. The Department is providing at no cost to the producers official identification that they can put in any animals they choose.

Senator Bock asked about the protocol for producers failing to test animals and about the possibility of movement without testing. **Dr. Barton** replied that the Department has done, and will continue to do, outreach with the producers to emphasize the importance of the testing requirement. The Department has penalty authority under rules, but elects to educate before penalizing. If it was blatant disregard of the rule that put not only animals in the DSA but also in the rest of the state at risk, the Department would elect to penalize. **Senator Bock** asked at what point it would become necessary to quarantine the animals. **Dr. Barton** replied that it would be in a repeat-offender type of situation.

Senator Nuxoll asked for clarification that the testing and rules govern just the designated areas. **Dr. Barton** said, correct, this does not affect the rest of the state, and that is what emphasizes the importance of the testing. Currently South Dakota and Minnesota are requiring cattle from anywhere in the state of Idaho to be tested. The goal of this rule is to encourage them to relax the requirement back to just cattle in the DSA. The department has good indication that is what will happen if this rule passes.

Chairman Siddoway expressed his concern that if an animal from Idaho is moved to another state and has an identification and was vaccinated and followed all the protocol and still has the identification, yet a couple years later tests as infected, that it may unjustly turn the spotlight on where the animal originated, and asked **Dr. Barton** to address that concern. **Dr. Barton** replied that having an individual identification in an animal, regardless of when it should show up with the disease, gives a very clear methodology to determine the likely source of that infection. **Dr. Barton** indicated that if such a scenario were to occur, he doesn't feel it reflects negatively on Idaho, and it would give the Department an opportunity to catch potential pockets of disease so it can be addressed and eliminated and dealt with quickly.

Chairman Siddoway said he's not sure that satisfies his concern, adding that if he were a producer and his cow left the state and he had followed all the protocol up to that point, that his liability would have left when that cow left. **Chairman Siddoway** also asked about the definitions of "cattle" being "all bovidae" and the "test eligible" being used interchangeably throughout the rule, being "all sexually intact cattle," which raises the question if bull calves are vaccinated and tested.

Dr. Barton explained the test eligible age for testing purposes under this rule is those females eighteen (18) months or older, so a six month old heifer would not be required to be tested, unless the state of destination required it. Minnesota requires all cattle from Idaho twelve months of age or older to be tested for brucellosis. South Dakota is eighteen (18) months of age or older. Under this rule, the Idaho Department would not require cattle under eighteen (18) months of age to be tested for brucellosis either prior to change of ownership or prior to moving out of the DSA. The vaccination requirement, as state law already, requires all female cattle in Idaho to be vaccinated between four and twelve months of age.

Chairman Siddoway asked if all bull calves get vaccinated. **Dr. Barton** answered that no, bull calves do not need to be vaccinated, nor do they need to be tested under this protocol. It is sexually intact female calves. **Chairman Siddoway** quoted from the rule that "test eligible" is defined as all sexually intact cattle, and asked if bull calves fall into that category.

Dr. Barton replied that if a state of destination wanted the bulls over twelve (12) months or eighteen (18) months of age to be tested, then it would be part of their import requirement that producers would need to meet. That is something that the Department could more clearly define in this rule is the intent of cattle leaving the DSA on change of ownership or movement is that only the sexually intact female cattle eighteen (18) months of age or older. **Chairman Siddoway** asked if this rule needs to be changed before the Committee proceeds. **Dr. Barton** replied that under the way the rule is being implemented at this point, he would hate to hold the rule and suffer the potential trade implications and that he is comfortable with the rule the way it is now and make the appropriate adjustment to the rule in the next session.

Chairman Siddoway asked for an update on the results in the House on this matter. **Dr. Barton** answered that the House Subcommittee voted to strike the individual identification requirement from the rule.

Senator Pearce asked about vaccine efficacy. He inquired about the cattle infection of brucellosis from elk in the DSA and if those cattle were vaccinated or not vaccinated. **Dr. Barton** replied the last occurrence of infected cattle in Idaho was in 2009 and they were vaccinated, and that the current vaccine for brucellosis is not 100% efficacious in preventing infection, and that it is only 70% to 80% effective, which is the best available. The Department would like better and more effective vaccines but the development of a brucellosis vaccine is at a stand still in the wake of the 9/11 events, because numerous agents were put on a bio-terrorism list, which makes vaccine development extremely difficult. State Veterinarians have been working to remove this brucella agent from the list, but until that happens, it's not feasible for drug companies to do research to develop a more efficacious vaccine.

Senator Corder asked for clarification on some other states' requirements on individual identification. **Dr. Barton** explained that Minnesota, Nebraska, Colorado and South Dakota all require that to receive Idaho cattle, they must have individual identification. Nebraska and Colorado have placed that requirement only on cattle that have been in the DSA. Minnesota and South Dakota have placed that requirement on all Idaho cattle.

Vice Chairman Smyser welcomed **Wyatt Prescott** to the Committee. **Mr. Prescott** is the Executive Vice President of Idaho Cattle Association, who testified in support of the rules changes, citing the organizations stand that the rules are crucial to maintain economic viability of the cattle industry as well as marketability of all Idaho cattle. He went on to further explain another perspective on individual identification requirement and was then excused as **Dr. Barton** returned to the podium for more questions.

Senator Nuxoll asked how long has Idaho been vaccinating cattle in Idaho, is it possible that the cattle are becoming immune to the vaccine, and what can be done to help the Department in getting the testing changed. **Dr. Barton** replied that brucellosis has been battled in the United States for many years. The first program was implemented on behalf of the USDA in the 1930s. It wasn't until 2007 that all states were considered to be brucellosis free in livestock. At that point Idaho did not have any infected cattle, but there was a reservoir of brucellosis in wildlife in and around the Yellowstone area. **Dr. Barton** went on to describe the varieties of vaccines that have been used in recent decades, that it is not anticipated to develop any resistance to the vaccine and it is as efficacious now as when it first came on the market.

Chairman Siddoway asked if abortion occurs in sheep, once they've aborted that first lamb, they have a lifetime immunity to that, and if that is the same with brucellosis in cattle? **Dr. Barton** said that a cow that is infected with brucellosis will typically abort the first fetus following infection. She can continue to produce live calves; however, she is still infected with the organism and will continue to shed that organism in fetal membranes associated with the birthing process.

MOTION:

Senator Pearce moved, seconded by **Chairman Siddoway**, to reconsider Rule No. 02-0420-1101 at the Agricultural Affairs Committee meeting on Thursday, January 26, 2012, stating the desire to learn more from the members of the House about their opposition to the individual identification. The motion carried by **voice vote**, with **Senator Corder** voting nay.

DOCKET NO:
02-0426-1101

Dr. Barton outlined the Pending Fee Rules Governing Livestock Marketing. This rule will make for consistency with the statutory requirement which provides that a charter fee be submitted annually by all livestock markets in Idaho. The charter renewal fee will be \$100 per year.

MOTION:

Chairman Siddoway moved, seconded by **Senator Nuxoll**, to adopt Rule No. 02-0426-1101. The motion carried by **voice vote**.

Chairman Siddoway thanked ISDA Director, **Celia Gould**, for her attendance at today's meeting.

ADJOURNED:

Chairman Siddoway adjourned the meeting at 9:30am.

Senator Siddoway
Chairman

Christy Stansell
Secretary

AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Thursday, January 26, 2012

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Minutes of January 19, 2012	Chairman Siddoway
INTRODUCTION and WELCOME	BYU Idaho, Policy Students visiting Capitol	Dr. Stephen McGary Ph.D., BYU Idaho
	GUBERNATORIAL APPOINTMENTS	Chairman Siddoway
	Consideration of Gerald "Jerry" Trebesch to Soil and Water Conservation Commission	
	Consideration of H. Norman Wright to the Idaho Soil and Water Conservation Commission	
02-0420-1101	Reconsideration of the Rules Governing Brucellosis	Chairman Siddoway
02-0104-1101	Rules Governing the Idaho Preferred Program	Leah Clark, ISDA
02-0214-1101	Rules for Weights and Measures	Kevin Merritt, ISDA
02-0303-1101	Rules Governing Pesticide and Chemigation Use and Application	Ben Miller, ISDA
46-0101-1101	Rules of the State of Idaho Board of Veterinary Medicine	Karen Ewing, Board of Veterinary Medicine
46-0101-1102	Pending Fee Rule of the State of Idaho Board of Veterinary Medicine	Karen Ewing
02-0409-1101	Pending Fee Rule Governing Milk and Cream Procurement and Testing	Marv Patten, ISDA
PRESENTATION	Impacts Upon Idaho Economy by a Shortage of Foreign-Born Labor	Brent Olmstead Priscilla Salant

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Vick
Vice Chairman Smyser	Sen Nuxoll
Sen Corder	Sen Bock
Sen Pearce	Sen Schmidt
Sen Hammond	

COMMITTEE SECRETARY

Christy Stansell
Room: WW50
Phone: (208) 332-1330
email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, January 26, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Siddoway** called the meeting to order at 8:00 a.m.

MOTION: **Senator Schmidt** moved, seconded by **Senator Bock**, to approve the minutes from January 19, 2012. The motion carried by **voice vote**.

Chairman Siddoway introduced and welcomed a group of students visiting from BYU Idaho, Department of Agribusiness, led by **Dr. Stephen McGary**, Ph.D.. **Chairman Siddoway** gave notice to the committee that he would need to be excused from the meeting early to attend another hearing and would leave the gavel with **Vice Chairman Smyser** at that point.

GUBERNATORIAL APPOINTMENT: The committee will consider the appointment of **Gerald "Jerry" Trebesch** to the Idaho Soil and Water Conservation Commission. He is to serve a term commencing October 4, 2011 and expiring July 1, 2016.

MOTION: **Senator Vick** moved to send the gubernatorial appointment of **Gerald "Jerry" Trebesch** to the Idaho Soil and Water Conservation Commission to the floor with the recommendation that it be confirmed by the Senate. **Senator Schmidt** seconded the motion. The motion passed by unanimous voice vote. **Senator Vick** will be the sponsor.

GUBERNATORIAL APPOINTMENT: The committee will consider the appointment of **H. Norman Wright** to the Idaho Soil and Water Conservation Commission. His is to serve a term commencing October 4, 2011 and expiring July 2, 2012.

MOTION: **Senator Bock** moved to send the gubernatorial appointment of **H. Norman Wright** to the Idaho Soil and Water Conservation Commission to the floor with the recommendation that it be confirmed by the Senate. **Vice Chairman Smyser** seconded the motion. The motion passed by unanimous voice vote. **Senator Bock** will be the sponsor.

Chairman Siddoway passed the gavel to **Vice Chairman Smyser** for the consideration of pending rules.

DOCKET NO: **02-0420-1101** **Vice Chairman Smyser** invited to the podium **Dr. Bill Barton**, who is Administrator of the Division of Animal Industries for the Idaho State Department of Agriculture, and also serves as State Veterinarian. He is available to answer any further questions regarding the pending rule governing brucellosis, which was put on hold from the Agricultural Affairs Committee meeting on Tuesday, January 24, 2012.

Senator Nuxoll asked if anyone has objected to this rule. **Dr. Barton** replied that there were numerous outreach meetings that were well attended and they presented the temporary rule to and consulted with the stakeholders, and in all those discussions, there were questions, but no one went on record as being opposed to the rule.

Senator Nuxoll asked how many ranchers are affected who have their cattle outside of the area, but then have their cattle grazing on the area that would be affected. **Dr. Barton** answered that within the Designated Surveillance Area (DSA) there are about 62 to 65 resident herds. It's difficult to provide a firm number of commuter grazers" that go into the DSA because there is no health certificate nor movement certificate required that can be tracked. The Department has worked with the Bureau of Land Management (BLM) and Forest Service to determine which producers have allotments in the area and those who could be identified have been contacted to explain the rule and requirements. As of December 2011, the Department has tested 3000 head of cattle.

Senator Nuxoll asked how it would be if the producers did the testing and identification on their own instead of mandating it? **Dr. Barton** replied that would be difficult to determine. It's hard to say how many would do the testing or the individual identification on their own.

Senator Nuxoll asked for clarification on how ranchers in the DSA are required every three years to test cattle, and if this rule would make it easier for them because there wouldn't be as much testing. **Dr. Barton** explained that if a rancher did not move his age-eligible cattle out of the DSA, then yes, it would be less testing for him. The big difference as far as animal health goes is the surveillance that is done by change of ownership or movement testing, where animals are being tested as they leave the area so as to ensure they don't pose a risk to other in state cattle or cattle outside of the Idaho boundaries. A lot can happen to a herd of cattle in three years.

Senator Hammond asked **Dr. Barton** to remind the Committee of the consequences for the cattle industry and shipping them to other states if we do not pass this rule. **Dr. Barton** stated there are four states that implemented movement restrictions on Idaho cattle. Minnesota and South Dakota require testing for brucellosis within 30 days of import into their states for all Idaho cattle, not just those from within the DSA. They also have an individual identification requirement. Colorado and Nebraska stopped short of implementing testing requirements, but did implement an animal identification requirement so that all sexually intact cattle that have been within the DSA are identified prior to import into their states. **Dr. Barton** said he has heard from North Dakota, Kansas, Oklahoma, Nebraska, and Washington that they are contemplating the same requirements, and it's his opinion that other states will follow suit.

Senator Hammond asked **Dr. Barton** if it is his opinion that with the implementation of this rule, it will mitigate those concerns and create a better opportunity for commerce among Idaho and those states. **Dr. Barton** replied that it is his opinion and it has already been demonstrated with the implementation of this rule in May of 2011 when the states that were contemplating measures stopped from doing so. He said he is fairly comfortable that if the rule does not pass, other states would implement more import requirements.

Senator Pearce asked about the stipulations on the identification tags, as with a six month old bull calf, if it is a metal tag or if it's an ear tag. **Dr. Barton** replied that the way the rule is currently written, it specifies "official individual identification." Under federal and state rules, the official individual identification is consistent with the brucellosis vaccination tag in females, a silver USDA tag in any sex animal, a radio frequency ID (RFI) tag and in some states, trick tags and brands have been accepted, but those last two are up for debate on the federal level. **Dr. Barton** said he does not believe brands would be accepted with Idaho's trading partner states, because it does not "individually" identify an animal.

Senator Pearce asked at what point is brucellosis transmitted from elk to cattle, and if only bred heifers are tested, is the herd covered, and what about a six month old heifer calf. **Dr. Barton** replied that historically, the test eligible age for determining brucellosis infection has been in the eighteen month plus range. As the department has worked to eradicate the disease and done more intense surveillance in specific areas, they have found younger animals infected. Eighteen months of age has historically been when the disease will show up. In the last part of 2011, a herd was identified in Wyoming and one of the heifers was positive for brucellosis at eleven months of age. She could have been exposed at any time in her life. Brucellosis is one of those diseases that can be latent for a long period before showing evidence of being infected. It's impossible to determine exactly when the animal was infected, but younger and younger animals are testing positive.

Vice Chairman Smyser asked if any other guest would like to testify on this matter and **Wyatt Prescott**, Executive Vice President of the Idaho Cattle Association (ICA), approached the podium. He stated the ICA does feel this rule would be the best thing for Idaho cattle and the viability and marketability of its cattle.

MOTION:

Senator Hammond moved, seconded by **Senator Bock**, to adopt Rule No. 02-0420-1101. In discussion, **Senator Hammond** stated in favor of the motion, that while there is some concern about this rule, but it is his belief that the risk of not passing the rule versus passing it is much greater, and he has a great concern for the cattle industry not being able to ship cattle to other states if there is not cooperation with trading partner states. The motion carried by **voice vote**.

**DOCKET NO:
02-0104-1101**

Vice Chairman Smyser introduced **Leah Clark**, Trade Specialist, Idaho State Department of Agriculture (ISDA), who outlined the pending rules governing the Idaho Preferred Program, which identifies and promotes Idaho food and agricultural products, with voluntary participation. This rule will provide product qualifications specific to forest products. It will create product definition and qualification criteria for lumber and further processed forest products. The rule was requested by the forest industry and was reviewed and approved by the Idaho Forest Products Commission.

Senator Bock asked for explanation of the underlying purpose for the rule. **Ms. Clark** explained that in the past, the program has had specific criteria for most products, such as defining what the product is and setting criteria for minimum amounts of included Idaho product. That information was missing and has now been added with this rule.

MOTION:

Senator Schmidt moved, seconded by **Senator Nuxoll**, to adopt Rule No. 02-0104-1101. The motion carried by **voice vote**.

Vice Chairman Smyser recognized and thanked **Representative Ken Andrus**, Chairman of the House Agricultural Affairs Committee, and his wife, for visiting the Senate Committee.

DOCKET NO:
02-0204-1101

Vice Chairman Smyser introduced **Kevin Merritt**, Section Manager, Bureau of Weights and Measures, Idaho State Department of Agriculture (ISDA), who outlined the pending rules for Weights and Measures. The bureau's primary responsibilities are to test and inspect commercial measuring devices. This rule change is an annual update and incorporates by reference the new 2012 edition. This handbook is used by Weights and Measures officials, servicemen, repairmen and businesses that use commercial measuring devices. Updating to this edition allows uniformity throughout the western United States. A page delivered the book to **Senator Bock** for his review.

MOTION:

Senator Schmidt moved, seconded by **Senator Hammond**, to adopt Rule No. 02-0204-1101. The motion carried by **voice vote**.

DOCKET NO:
02-0303-1101

Vice Chairman Smyser introduced **Ben Miller**, Agriculture Bureau, Idaho State Department of Agriculture (ISDA), who outlined the pending rules governing pesticide and chemigation use and application. The current rule requires professional applicators to be on-site for the entire pesticide application, which sometimes takes up to two days to complete. This rule provides that applicators return at least once every four hours to check on the application. The rule change is recommended by Licensing Applicator Advisory Committee. When the pesticide and chemigation rules were combined in 2000, an unintended burden was placed on licensed applicators by requiring them to be with the system from the time they turned it on until they turned it off. This also caused added expense to the farmers who have to pay the applicators for their time. The ISDA staff agrees that a change should be made to do away with the unnecessary, cumbersome and financial burden on the applicators and farmers.

Vice Chairman Smyser noted her appreciation to the department for their use of common sense in an effort to save the farmers money.

Senator Corder asked what documentation will be used to prove that the applicators were there every four hours. **Mr. Miller** said applicators are required to keep records on every application, and department inspectors do routine inspections with the farmer and applicator. **Senator Corder** asked how it will be verified that the applicator was indeed there at the time it was turned on and then four hours later, and throughout the 24, 48, 36 hour period. **Mr. Miller** replied that the applicator has to put down every time they came back to check the system, which would be found in the department's audit of those records.

Senator Corder stated that is a difficult task because it can be read what is on the paper, but unless someone is actually there on site when that four hour period elapsed, the department can't verify that for certain. **Mr. Miller** said it's not any different than any other application that goes on in the state, as that would be impossible to physically be at every one, but the department's history is to have that information required on the forms, and the department will fine and cite applicators for not keeping accurate records. **Senator Hammond** stated it is a similar situation for trusting what truckers put on their driving logs.

Senator Schmidt asked for clarification that in reviewing the rule, a sentence has been added to the rule for allowing the four hour intermittence, but that the sentence requiring presence has not been removed or edited. **Mr. Miller** said the Licensing Committee considered this but did not have any concern.

MOTION:

Senator Hammond moved, seconded by **Senator Bock**, to adopt Rule No. 02-0303-1101. The motion carried by **voice vote**.

**DOCKET NO:
46-0101-1101**

Vice Chairman Smyser introduced **Karen Ewing**, Executive Director, Board of Veterinary Medicine, who outlined the pending rules of the State of Idaho Board of Veterinary Medicine. The proposed changes include removing the entire section on national examination eligibility evaluation to correspond with a 2011 statute change. The Idaho Board now contracts with the National Board of Veterinary Medical Examiners (NBVME) to determine applicant eligibility to take the North American National Licensing Examination.

The change also proposes to remove refunds of the original certification fee for Certified Veterinary Technician (CVT) applicants who withdraw their applications prior to Board review. This action will allow the Board to recover its expenses for the time that Board staff has spent to process the application that the applicant then withdraws.

The change also adds an additional phrase to require that changes to patient medical records must identify the revision, and include additional notations to identify who made the change, the date of the change, and why the record was changed. This will ensure that the Board or a subsequent practitioner can clearly understand the events that led to the record revision.

Lastly, the change will remove the current requirement that a veterinarian obtain a signed release from the animal patient's owner prior to releasing patient record copies to another veterinarian or the owner, which will help improve and expedite the patient care, and will also relieve the patient's owner from unnecessary duplication of expenses of having tests or vaccinations or procedures redone that were made at a previous office. Patient medical records will remain confidential and veterinarians will implement their own system to positively identify clients who make verbal records requests.

Ms. Ewing noted that the Board conducted a survey of its licensees and certificate holders and received 779 responses, of which 83 percent were fine with the changes.

Vice Chairman Smyser asked if the records are still confidential, why would people still be against it. **Ms. Ewing** answered that it is a philosophical difference, based on some people wanting everything in writing to protect themselves from the litigiousness of society.

MOTION:

Senator Nuxoll moved, seconded by **Senator Schmidt**, to adopt Rule No. 46-0101-1101. The motion carried by **voice vote**.

**DOCKET NO:
46-0101-1102**

Karen Ewing outlined a pending fee rule of the State of Idaho Board of Veterinary Medicine, which is designed to help the Board cover the costs of its budget over the next five years, considering annual license renewal fees are the Board's most significant source of income. The fees for veterinarians have not been increased since 1999 and fees for euthanasia agencies have not increased since 1993. To determine acceptance of the proposed fee increases, the Board conducted a survey and received 779 responses from licensees and certificate holders, and two thirds of respondents are okay with the increases.

The original proposal was to increase the annual license renewal fees by \$75 from \$125 to \$200. However, in light of current economic situation, the Board decided to reduce the amount of the increase to raise it by only \$50, from \$125 to \$175. **Ms. Ewing** said the Board felt this was appropriate, given the last increase 13 years ago was also by \$50. This fee increase will place the Board in the middle of the veterinarian licensing renewal fee costs in western states. Ten states have similar or higher renewal fees, and seven have lower renewal fees.

During the Board's public hearing on the fee and non-fee rule changes, the Idaho Veterinary Medical Association (IVMA), which is an organization that advocates for veterinarians in the state, testified in support of the original fee increase, even before the reduction in the amount of the increase.

Senator Schmidt asked for a description of the Board's fund balance. **Ms. Ewing** said the Board's Free Fund Balance will fall down to \$40,000 within the next two years, and with the annual budget at \$200,000, the Board would like to keep a balance of six months operating expenses in the Free Fund. With the fee increase, it will allow the Free Fund Balance to go out to 2016 and be about \$116,000, using conservative calculations. This means it would be five years before another increase is potentially needed.

Senator Pearce asked if there was a hang-up in the House on some of these rule changes? **Ms. Ewing** replied that there was no issue with the fee rule, but in the non-fee rule docket, the House had an issue with the rule about not refunding technicians application fees. The House also had a problem with a statute change. But there were no objections to the fee increases during the House Agricultural Affairs, Livestock Subcommittee.

MOTION: **Senator Schmidt** moved, seconded by **Senator Hammond**, to adopt Rule No. 46-0101-1102. The motion carried by **voice vote**, with **Senator Vick** asking to be recorded as voting nay.

DOCKET NO:
02-0409-1101 **Vice Chairman Smyser** introduced **Mark Patten**, Dairy Bureau Chief for the Idaho State Department of Agriculture. He outlined the rule that establishes specific parameters for milk component testing, as required by the passage of HB152 in the 2011 Idaho Legislature. The ISDA is required to establish a fair and equitable way to determine milk components so that dairymen are appropriately compensated for the value of the product they produce. Milk is purchased on volume, where quality has no component. Through numerous negotiated rulemaking procedures with stakeholders including the Idaho Dairy Association, this rule was reached and published in October 2011 and received no comments.

MOTION: **Senator Nuxoll** moved, seconded by **Senator Schmidt**, to adopt Rule No. 02-0409-1101. The motion carried by **voice vote**.

PRESENTATION: **Vice Chairman Smyser** welcomed **Brent Olmstead**, registered lobbyist representing Idaho Business Coalition for Immigration Reform, and his guest **Priscilla Salant** from University of Idaho, Office of Community Partnerships. **Ms. Salant** is one of four authors of a report titled, "An Analysis of How Reducing the Supply of Foreign-born Labor Would Impact Idaho's Economy." **Mr. Olmstead** offered some background that about five years ago, discussion began for the state of Idaho to take action on immigration, and it was found that there were not solid facts of what impacts would be. The Coalition found there are difficulties on both sides of the issue. Idaho Dairymen's Association took it upon itself to hire the University of Idaho to do a study, which has taken three years to complete. **Ms. Salant** began her presentation by stating the background behind this study is controversial, with the question of whether immigrants are a net benefit or net cost to the country, and there are strong feelings on both sides of the issue, which is why this study is important. A copy of this report and a one page summary of its contents are attached.

Following the presentation, **Senator Bock** asked for clarification on the net loss of jobs and the impact on the economy indirectly. **Ms. Salant** noted that an advantage to this study is that it does take into account the indirect impact, and that is included in the net loss of 17,000 jobs.

Senator Vick asked if the figures take into account the cost of unemployment and welfare benefits for the native born labor force who are not working because foreign born workers are in those jobs. **Ms. Salant** replied that this model does not include those figures, but it did look at the use of services such as criminal justice and health services to see if there was a disproportionate burden on South Central Idaho, and it found that there is less use of those services by foreign born workforce, because of concerns of connecting with the system without being able to provide proper identification.

Senator Vick asked if there is a way to measure how the substitution problem would change if the native born workforce who were not working did not have access to services so that they can still live without working. **Ms. Salant** replied that is not in the model.

Senator Vick asked for information on why the substitute workers won't take jobs when they're available, and how that conclusion was reached. **Ms. Salant** replied that the study does not "conclude" that substitute workers would or not take a job. There is only anecdotal evidence, not hard data, on the numbers of native born workers not taking jobs left vacant by a reduction in foreign born workers.

Vice Chairman Smyser asked if foreign-born workers receiving services also included the foreign born workers' families. **Ms. Salant** said yes, it includes the families.

Senator Bock noted that he is by no means an advocate of using foreign-born workers to reduce labor costs, but acknowledges that the presence of foreign-born workers reduces labor costs. He asked what calculations have been done to calculate the increase in labor costs in the absence of foreign-born labor. **Ms. Salant** asked if he was referring to the aggregate (or total) wages paid or the wage rate. **Senator Bock** answered he's looking for both, as he shared an example of how a dairyman paid more for native-born workers than they would have paid foreign-born workers, and unfortunately, the native-born didn't last the day on the job. So he'd like to know the wage rate for the employees as well as the overall cost to the economy. **Ms. Salant** replied the wages would be up for workers in the less educated group. The total cost can be calculated by multiplying the increase in the average wage rate by the number (4,000 in this study) of workers in the less educated group, and that would be the total wage hit.

Vice Chairman Smyser thanked **Ms. Salant** and **Mr. Olmstead** for the presentation.

ADJOURN:

Vice Chairman Smyser called the meeting adjourned at 9:23 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary

AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Tuesday, January 31, 2012

SUBJECT	DESCRIPTION	PRESENTER
INTRODUCTION and WELCOME	University of Idaho Agricultural Economics Students on Public Policy Tour	Chairman Siddoway
PRESENTATION	The Financial Condition of Idaho Agriculture	Dr. Garth Taylor, Economist, University of Idaho
PRESENTATION	Soil and Water Conservation Commission Annual Report	Teri Murrison

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Smyser

Sen Corder

Sen Pearce

Sen Hammond

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

Christy Stansell

Room: WW50

Phone: (208) 332-1330

email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, January 31, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Nuxoll, Bock, and Schmidt

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Siddoway** called the meeting to order at 8:00 a.m.

INTRODUCTION: **Chairman Siddoway** passed the gavel to **Vice Chairman Smyser** to introduce the students from University of Idaho on their Public Policy Tour with Rick Waitley of the Food Producers of Idaho and welcomed them to the Committee. Each of the thirteen visiting students stood and shared their name and focus of study. **Vice Chairman Smyser** returned the gavel to **Chairman Siddoway**.

PRESENTATION: **Chairman Siddoway** introduced **Dr. Garth Taylor**, Economist, University of Idaho, Department of Agricultural Economics and Rural Sociology, for his presentation on "The Financial Condition of Idaho Agriculture." **Dr. Taylor's** complete presentation is attached in the official record. Following are some highlights of his testimony.

Dr. Taylor introduced his colleague, **Ben Eborn**, who assisted with the study and will be available for questions after the presentation. **Dr. Taylor** noted that the presentation is for a 2011 forecast, as the official 2011 numbers are not available until Fall of 2012, and that these figures are based on a "calendar year," not a "crop year."

Dr. Taylor pointed out that all crops but one had record years. Most shattered previous records, except for onions, which had revenues down 43 percent. **Vice Chairman Smyser** asked why that was so for onions, if it was supply and demand, and **Dr. Taylor** replied they had problems with the harvest and with wetness in cellars. **Dr. Taylor** noted that the increase in all other agricultural industries indicates that Idaho Agriculture is bigger now than ever and is a growing industry.

Senator Nuxoll asked about the difficulty in tracking the economics of hay. **Dr. Taylor** replied that there is significant drought in Texas and Mexico, that led to higher export revenues for Idaho hay producers, and that yes, it is a difficult industry to track, and the producers have the responsibility of providing accurate survey data.

Chairman Siddoway instructed the Committee to please hold all further questions until the presentation is concluded.

Dr. Taylor shared his forecast that Idaho will double the size of its agriculture industry every fifteen years. Idaho Net Farm Income is up 88 percent, which he called unbelievable growth, at 93 percent above the ten year average. He also pointed out the volatility in the agricultural industry, noting that in just 2009 income was down \$800 million.

Dr. Taylor said there are four implications in the coming years: More risk for farmers; Stricter lending standards; Tax revenue volatility; and, Stability in rural communities. He also noted that debt-to-equity ratios are at historic lows for Idaho farmers.

Dr. Taylor shared his forecast for a variety of Idaho agriculture industries. He said his forecast is for an upward demand for cattle. He stated that "Dairy is the 900 pound gorilla" for the impact on Idaho's agriculture industry economy, with an average of 20,000 head of cattle being added each year. The outlook for the beef industry is also for more head, but the loss of the slaughter house will cut into producers' margins with the increased cost of travel for that purpose. For potatoes, the prices are higher for processed potatoes and lower for fresh. Wheat production is coming off a high and is expected to be lower production, as acreage will shift to other crops. **Dr. Taylor** said the outlook for hay is extremely strong as both production and prices will go up. Barley acreage and production should be flat. Sugarbeet outlook is also flat, as acreage and processing availability is limited, but it is the one crop that should not be displaced by alfalfa. Dry beans will still see higher prices.

Senator Pearce asked about how inflation is incorporated into the Governor's Project 60. **Dr. Taylor** replied that inflation is low right now, so very little. **Senator Pearce** asked about beef production being up in Idaho and yet down across the country. **Dr. Taylor** deferred to **Ben Eborn** for response. **Mr. Eborn** said that much of the expansion in Idaho is coming from the dairy industry, rather than the beef industry.

Senator Bock asked about the impact of subdivision development on the acreage used for farming. **Dr. Taylor** replied that it is a problem, especially here in the Valley.

Senator Schmidt asked how government payments are associated with the net income reported in this presentation. **Dr. Taylor** indicated that the only crop produced in Idaho that receives government payments is wheat so it's not a significant amount, as it is only enrollment and insurance based payments.

Senator Schmidt asked that if the farm production goes up, will the jobs availability go down. **Dr. Taylor** replied that is a really good point, in that Idaho produces big crops that don't require as much labor.

Senator Corder asked for **Dr. Taylor's** input on what would be the best way that Idaho can spend dollars to create the maximum economic stability in Idaho, considering the Governor's task to the Legislature to determine the best use of a proposed \$45 million tax incentive or relief. **Dr. Taylor** said this is "Economics According to Garth" and that if someone has no taxable income, they won't be taxed, so what will be seen is that the larger farms will pay a far greater proportion of the total agricultural tax revenue, as smaller farms have more tax deductions. That means there will be more volatility in the farm tax revenue because the bigger the farm, the more the volatility. **Senator Corder** and **Dr. Taylor** discussed the implications of the new yogurt factory coming to Idaho and how granting tax concessions to the business to attract it to the state might be counterproductive to the long term viability of the cattle industry in Idaho.

Senator Nuxoll and **Dr. Taylor** discussed the surveys conducted by the Department of Commerce and the USDA and the importance of providing accurate data on the surveys. **Senator Nuxoll** asked for clarification on the term "households" in the pie charts of the presentation, and **Dr. Taylor** said that indicates income sources such as social security checks, dividends, retirement, that don't cost anything to receive, but still help circulate money and build the economic activity indirectly.

Chairman Siddoway commented that with the projections indicating the prices we see this year won't return until the year 2020, and what happened to the cycle of seven years of good business. **Dr. Taylor** replied that it doesn't seem to jive with his outlook of doubling of Idaho agriculture every 15 years, but he is basing part of his forecast on the growth of the dairy industry. **Chairman Siddoway** commented how even with a moratorium on water, the state has made incredible gains in net farm income and how it will fall to the youth to continue the increases with even better productivity and new technology. **Chairman Siddoway** expressed his concerns about feed costs and the need for sheep herds to compete with cattle and that what used to cost \$50/head now costs \$110/head, and the challenge to keep the industry going.

Chairman Siddoway expressed his gratitude to **Dr. Taylor** and his staff as well as the visiting students from University of Idaho.

PRESENTATION: **Chairman Siddoway** introduced **Teri Murrison** of the Soil and Water Conservation Commission to present the Commission's Annual Report. **Ms. Murrison** introduced her colleague, **Kristin Magruder**, who will be available for questions as needed. Following are highlights of **Ms. Murrison's** presentation. Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment #1).

Ms. Murrison began by saying how **Dr. Taylor's** presentation helped emphasize the Commission's strategy that "voluntary" conservation is key to success. She thanked **Senator Bock** and **Senator Vick** for their presentation and the rest of the Committee Members for their recent confirmation of two Soil and Water Conservation Commissioners.

Ms. Murrison outlined three goals for her presentation: an overview of the Conservation Commission, an update on district and Commission relations and accomplishments since the last legislative session, and emphasize why the Commission is important to Idaho. She stated the Commission's mission is: "To facilitate coordinated non-regulatory, voluntary and locally led conservation by and between federal, state and local governments (including conservation districts) in order to conserve, sustain, improve, and enhance soil, water, air, plant and animal resources."

Ms. Murrison described how the Commission efforts to achieve that mission by operating Comprehensive Conservation and Incentive Programs, District Support Services, and Capacity Building, which aims to help districts become stronger and less dependent on Commission resources. **Ms. Murrison** cited the example of the Teton Soil Conservation District that held a Rural Living Workshop that addressed wildfire protection, weed control, and tree selection and maintenance. Districts around the state educate and sponsor hundreds of school children with Ag in the Classroom, Ag Days, poster contests and others.

Ms. Murrison shared another example of saving resources with an attractive irrigation diversion structure that used gravity flow and strategically placed rocks at the cost of only \$30,000 instead of a massive, unattractive concrete structure that cost \$500,000.

Ms. Murrison outlined the results of a statewide survey of Conservation Districts, which indicate overall satisfaction with the quality of assistance from the Commission, but expressed concern that resources and staff are inadequate to provide equitable support. The report indicates the assistance provided dropped 25 percent from 121 projects in FY2010 to 92 projects in FY2011. The drop was related to downsizing, in which there were 33 staff members in FY2009 and ended FY2011 with 16 staff members.

The Commission's efforts with conservation programs including "Total Maximum Daily Loads," "Ground Water Nitrate Priority Areas," "Conservation Reserve Enhancement Program (CREP)," and "Resource Conservation and Rangeland Development Programs (RCRDP)" were also reviewed.

Ms. Murrison cited how "OnePlan," the Commission's free, easy to use online conservation planner, has been a great example of how incentives work better than regulations. Expansion plans are underway to integrate statewide reporting on voluntary conservation to demonstrate the positive environmental and economic impact on Idaho.

Ms. Murrison described another way the Commission aims to achieve its mission is through efficient administration, with strategic planning, transparency, and cost savings, such as controlling expenditures, and reducing travel to the extent possible, given the Commission's focus on district outreach and the size of the state. She stated that the Commission still faces challenges as they adjust to the reduction in workforce and general funds, but they continue to seek alternative sources to be as efficient as possible.

Ms. Murrison shared that she has visited more than 25 districts, attended ten district tours, and conducted a field hearing in Northern Idaho and reported that good relations and trust are on the rise. The first ever Commission Listening Session at the annual District Association Conference encouraged relationship building.

Ms. Murrison shared that the Commission is important to Idaho because it helps preserve the natural resources and wide open spaces that Idahoans love and enjoy. She says the Commission "is not whining about what we don't have, but are thankful for what we've got," and will continue to work hard to advance incentive-based, good stewardship in Idaho.

Vice Chairman Smyser thanked **Ms. Murrison** for her leadership and for streamlining the process that has been a positive impact for Idaho.

Senator Vick, Ms. Murrison, and Ms. Magruder discussed the differences between CRP and CREP and details about nitrate reduction priority projects. **Chairman Siddoway** added his understanding that CRP involves dry land, while CREP has an irrigation component to it.

Chairman Siddoway thanked **Ms. Murrison** and **Ms. Magruder** for the presentation and they were excused from the meeting.

NOTICE:

Chairman Siddoway notified the Committee of his interest to review a final rule that will impact the elk industry, noting the rule is making it impossible to bring elk into Idaho. He has spoken with **Dr. Bill Barton** and **Brian Oakey** at the Department of Agriculture about how to fix it and they suggested calling the rule back to the Committee to try and solve that problem. **Chairman Siddoway** said he will contact **Dennis Stevenson** of the Department of Administration to coordinate the process. **Senator Hammond** said that if there is a problem, it's likely that **Chairman Siddoway** is not the only one affected and that it should be called back.

ADJOURNED:

Chairman Siddoway called the meeting adjourned at 9:53 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary

AMENDED #2 AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Thursday, February 02, 2012

Correction of Names

SUBJECT	DESCRIPTION	PRESENTER
MINUTES REVIEW	Minutes from Tuesday January 24, 2012	Senator Pearce Senator Bock
	Minutes from Thursday, January 26, 2012	Senator Hammond Senator Vick
PRESENTATION	Idaho Wheat Commission Annual Report	Blaine Jacobson, Idaho Wheat Commission
IDAPA 02.04.21	Rules review of final rule: "Rules Governing the Importation of Animals." Discussion on rules relating to the importation of domestic cervidae and certain treatment and testing requirements.	Chairman Siddoway

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway
Vice Chairman Smyser
Sen Corder
Sen Pearce
Sen Hammond

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Christy Stansell
Room: WW50
Phone: (208) 332-1330
email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, February 02, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Nuxoll, Bock, and Schmidt

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman Siddoway called the meeting to order at 8:00 a.m.

MINUTES: The committee considered the minutes of the Agricultural Affairs Committee meeting from January 24, 2012.

MOTION: **Senator Pearce** moved, seconded by **Senator Bock**, to approve the minutes of January 24, 2012. Motion carried by **voice vote**.

MINUTES: The committee considered the minutes of the Agricultural Affairs Committee meeting from January 26, 2012.

MOTION: **Senator Vick** moved, seconded by **Senator Nuxoll**, to approve the minutes of January 26, 2012. Motion carried by **voice vote**.

PRESENTATION: **Chairman Siddoway** introduced **Blaine Jacobson**, Executive Director of the Idaho Wheat Commission, for the Idaho Wheat Commission Annual Report.

Mr. Jacobson shared an overview of the World Production and Use of Wheat, stating that worldwide, the last four years have been the four highest production years on record, and it continues to be a growing market and growing crop. However, the United States is the only market in the world that saw a decrease in production. This is attributed to the link between wheat and corn, and with corn seeing record prices and usage, wheat crop acreage is decreasing. The biggest impact on the wheat industry is the growth of the soybean and corn crops. There could be more changes if more wheat acreage turns to corn. **Mr. Jacobson** said Idaho exports wheat to seven of the top ten international customers, including Japan, Mexico, Egypt, Philippines, Korea, Taiwan and Indonesia.

Turning to investments, **Mr. Jacobson** shared that the Idaho Wheat Commission has made two separate one-million dollar endowment investments at the University of Idaho, as the Commission believes that there needs to be more advances in wheat research, as future yield increases will be driven by research. The Commission has a five part investing strategy: Endowments; Infrastructure and operating capital for CALS by increasing wheat assessment; Public-Private partnership; Work-study opportunities for students; and, Restoration of public funds. **Mr. Jacobson** said he urges the restoration of public funds for agriculture as soon as possible, noting a strong wheat industry contributes to a strong agriculture industry.

Mr. Jacobson described how private breeding of wheat is changing the wheat industry, especially with the growth of six major companies making investments in wheat breeding: Monsanto, BASF, Limagrain Cereal Seeds, Syngenta, Dow AgroSciences, and Bayer CropScience.

Mr. Jacobson described the different breeding programs and their time frames. He said that Oregon, Washington and Idaho have joined with Monsanto on "Seed Chipper Technology" that will help researchers find the best germplasm by determining the genetics of the seed without destroying the seed itself. Researchers then use an interlinked database and genetic markers to determine an agronomic match, meaning the best location for the best growth of the seed. He said this is faster technology than waiting for a leaf of wheat to grow.

Mr. Jacobson told how private companies are looking to partner with public programs that have good agronomic practices, good infrastructure and good germplasm, and he said this is why it's important for the Idaho Wheat Commission to remain strong and growing.

Mr. Jacobson said the options are: Make solo investments; make a public-private partnership; or, exit the breeding process. He said it's not feasible to make solo investments as public endeavors can't keep pace with the spending of private companies. Exiting the breeding business would hurt the local industry. So the Commission has chosen to work through partnership, while at the same time keeping the agronomics and infrastructure healthy in order to keep the partnership healthy.

Mr. Jacobson said in summary, there is a new era in the wheat industry. The world wheat trade will double over the next 40 years to accommodate world growth. There are "Wheat Belts" in both the northern hemisphere and the southern hemisphere, and the largest population growth is between the belts, as in India and China, and the Pacific Northwest is best positioned to capture that growth.

Looking at the Idaho Wheat Commission budget, **Mr. Jacobson** shared that wheat tax revenue is expected to be \$2 million, working with the wheat tax assessment being at two cents. However, the spending budget is \$2.2 million, so the Commission has been operating on reserves this year. He said that as of December 31st, they have less than a year's operating budget in reserve.

Research takes nearly half of the budget, about a third of which goes to the University of Idaho. The Commission has had to prioritize to keep some of the most critical research programs intact. The assessment can't cover everything, which is why he said he encourages as soon as the state can afford it, to reinvest in agriculture.

Mr. Jacobson said production is up eight percent, but they expect next year's crop will be down a bit, saying the Commission has been aggressive with contracting, but they may lose some acreage to potatoes and sugar beets. So the Commission is projecting a tax revenue of only \$1.8 million.

Mr. Jacobson described an increase in research needs, with the late maturity problems the past couple of years that need to be researched. Worms and nematodes are other problems they're working on, as well as a need to protect against stem rust.

Mr. Jacobson shared some of the products from end-users of Idaho wheat, and brought samples of cookies from Grand Central Bakery in Oregon as well as Gold Fish crackers, which are made from southern Idaho soft white wheat. **Chairman Siddoway** thanked **Mr. Jacobson** for the cookies and the presentation and opened the discussion for any questions from the Committee.

Senator Nuxoll asked if the Idaho Wheat Commission is not considered private. **Mr. Jacobson** replied that no, it is not private. It is a state agency that has self governing authority.

The enabling legislation allows for five commissioners appointed by the Governor, and as a state agency it has to report to the State, but is self-funded as well. So, when funding is needed, the wheat growers need to go to the wheat growers to support it, and if the wheat growers feel the return is worth it, then they'll approve it.

Senator Nuxoll asked what is the problem if the private takes over. **Mr. Jacobson** answered that the problem is that wheat growers will pay a higher price for seed. Currently Idaho wheat growers have an agreement with the University of Idaho that allows for competitive pricing using University of Idaho germplasm. As the privates look for germplasm and technology, they are bound by an agreement with the University, so that any joint releases will be made available to Idaho growers at a competitive price.

Mr. Jacobson went on to describe an example of Syngenta with corn and soybean and with how Syngenta runs the seed business today, the farmers pay an extremely high price for their seed. Monsanto told the Idaho Wheat Commission when they started looking for wheat, they realized it is a highly fragmented industry, especially in Idaho where there are "micro climates," which means one variety of wheat that grows well in one part of the state won't grow as well in another part of the state.

The difference is that with corn and soybean seeds, they can develop one or two varieties and run them over hundreds of acres. Therefore, Monsanto realized they need local partners to make that entry into the wheat business. Again, with the public-private partnership, having that bound by agreements, and using public germplasm, there is a large benefit for Idaho growers. **Mr. Jacobson** said it's not that seed prices won't go up, and he said they will probably go up everywhere, but with this kind of provision they prevent the privates from using the same pricing model that they've used for corn and soybeans.

Senator Nuxoll asked how much of the assessment increase proposal is going into research. **Mr. Jacobson** answered that more than half of the assessment increase will go into research, because if it doesn't, then the growers stand the risk of being frozen out of wheat breeding. The Commission believes it better to be part of it than being on the outside looking in.

Vice Chairman Smyser expressed her appreciation to **Mr. Jacobson** for his leadership in regards to the endowment and to his commitment, as well as that of the growers, for working to secure public-private partnerships to benefit the state of Idaho and support of the University of Idaho research, because it makes a difference.

Mr. Jacobson thanked her and shared that one of the Commissioners posed the question, "If we don't do it, who IS going to do it?" The Commission has looked at what's been happening for the past couple of years, and they didn't want to come back for a wheat assessment, but they finally decided if they are going to be part of the new world of wheat, they needed to pursue other investments, such as the endowment and public-private partnerships.

Senator Schmidt also complimented the Commission on their forward-thinking and asked about wheat with transgenic traits. **Mr. Jacobson** replied that the Commission knows that wheat with transgenic traits will eventually be in the food industry, and they have built good relationships with global companies who keep them up to date on what's going on in the world.

They expect that probably in the next five years, transgenic wheat will be in India, Pakistan and China. Eventually that will come to the U.S., Canada and Australia, but expect that the U.S. won't be first. In looking at where the world food needs are and where the population is growing, the world will need to double the food output by 2050. Monsanto's goal is to triple the productivity of seeds, and the only way to do that is to bring new productivity-enhancing traits into wheat.

Mr. Jacobson went on to compare wheat to corn and soybean crops, and how corn and soybean crops are increasing, and wheat is decreasing and how that's a direct function of not having productivity genes in wheat. He said his best guess is that transgenic wheat will be introduced within five years, and it will be in the U.S. in about eight to ten years.

Senator Corder commented that what **Mr. Jacobson** just said is the best argument for using public research rather than private research, in the best interest of agriculture as a whole and Idaho as a whole. **Senator Corder** offered an example of a private company creating a chemical that could satisfy all the weeds problems for one particular crop, and that same company was producing all the seed for that particular crop, too, that such a scenario would pose a significant risk to Idaho. **Mr. Jacobson** said it's exactly that kind of statement scares them to death. They do not want the model used for corn and soybeans brought to Idaho for wheat. There is no guarantees that they can maintain this position, because eventually the privates may run over them anyway, but based on their efforts in the past year and a half, they believe in the reasonable chance of being able to make it a win-win for the growers and the privates, and that is the Commission's intent.

Senator Vick asked for a better definition of what transgenic wheat is. **Mr. Jacobson** answered it is genetically modified wheat, "GMO" which means a change has been made to the wheat to make it more productive in some manner. A gene has been inserted into those plants to make it resistant to Round-Up, so that the Round-Up can kill all the weeds around a crop, but not the wheat that has the Round-Up ready gene in it. Monsanto's top priority is a drought resistant kind of wheat, because considering the world picture, places where wheat can make the most difference are areas with a really dry climate, like Pakistan and China. It will also help the United States push back against corn. Parts of the Midwest that were traditionally wheat growing country have been replaced with drought resistant corn and soybean crops. Those crops are expanding at the expense of wheat. A transgenic wheat could be one that can be productive with less rainfall or other beneficial uses. It's not anything that in time breeders couldn't do themselves, but by using partners, it can happen much more quickly and makes wheat more productive more quickly.

Senator Vick asked for clarification because his brothers use Round-Up ready wheat already. **Mr. Jacobson** replied that there are varieties of transgenic wheat being tested but none that have been approved yet for introduction into the food chain. So, where transgenic wheat is grown, it is grown in controlled conditions, with a wide buffer with other crops, but research is occurring in public and private breeding institutions, including at the University of Idaho. When the final approvals are given in eight to ten years, it will be commercialized then.

Senator Nuxoll asked with all the controversy on GMO's, if the research considers the change in composition of nutrition of the plants, and also the effect on its ability to resist some other diseases that arise because of the changes in the nutrition of the plant. **Mr. Jacobson** said yes, that is correct. There are a variety of traits that have been identified, and the seed chipper is just one part of the research. They have a database from testing millions of seeds a year. They have cataloged all those traits, and they can identify where in the world that seed is best suited. **Senator Nuxoll** commented that she knows there has to be a balance.

Chairman Siddoway thanked **Mr. Jacobson** for his presentation and that he's welcome back next Tuesday.

IDAPA 02.04.21 **Chairman Siddoway** brought before the committee a review of a final rule: "Rules Governing the Importation of Animals," IDAPA 02.04.21, specifically the rule relating to the importation of domestic cervidae and certain treatments and testing requirements. The rule is Section 600, subsection 02.

Chairman Siddoway declared his conflict of interest as he has an elk ranch. He then described how the current regulation that requires treatment of elk with a flukicide or parasiticide overlaps with another regulation that requires a test for brucellosis. The overlapping of the timing of both tests only allows a window of one day to bring in animals.

Chairman Siddoway invited **Dr. Bill Barton**, Administrator for the Division of Animal Industries and State Veterinarian from the Idaho State Department of Agriculture, to the podium for further explanation. **Dr. Barton** referred to the rule governing importation of animals and the requirements to import domestic cervidae into the state of Idaho. One of the requirements is that those animals that are imported must be treated with a parasiticide for the treatment of giant liver flukes. That treatment needs to occur no less than 30 days and no more than 60 days prior to import. The reason those dates were set is that 60 days takes into account the life cycle of a fluke.

The idea is to make sure the animal is treated early enough that the life cycle is disrupted to make sure the animal is not shedding the organism when they come in to the state. The 30 days is the lower end of that which will allow the producer to meet the drug withdrawal times in any of those elk that are for human consumption.

Dr. Barton went on to describe another requirement for elk coming into the state of Idaho, regardless if they're from out of state or from Canada, is that they be tested for brucellosis, no longer than 30 days prior to import. This has posed a problem for those producers who would like to import their elk and only have to work those elk once. **Dr. Barton** stated as the Chairman said, producers have to meet the brucellosis requirement no more than 30 days and producers can't treat for flukes in less than 30 days, so that basically provides ONE day to work those animals if the producers plan on only running them through the chutes and processing them once.

Senator Schmidt asked to clarify the range of effectiveness for the parasiticide, if there is a risk of reinfection and if the parasiticide doesn't eradicate the parasite.

Dr. Barton described the life cycle of the liver fluke as a convoluted life cycle. It has an intermediate host which is a snail. The definitive hosts are typically North American or wild cervids. The drug that we use to treat for liver flukes are approved in domestic livestock species but they have not been approved on the label for treatment of elk. They are known to be somewhat effective in elk but not as effective as they are in cattle, sheep or other animals. The problem lies in that there is not a published withdrawal time for the meat of an animal that has been treated with a flukicide that specifies how long after the flukicide is it safe for human consumption. There have been numerous studies done. Suspected withdrawal time for the two de-wormers that work fairly well in wild elk range from a recommended 27 day withdrawal time to 49 day withdrawal time. So the problem lies in that 30 day number. The producer would likely be accepting a significant amount of liability if he were to allow that animal to be harvested and consumed when it had only been treated within 30 days or less.

Senator Hammond asked about the consequences if the subsection 02 of the rule is rejected, and what is **Dr. Barton's** proposed fix for the scenario of producers being able to treat for only one day. **Dr. Barton** replied that his role is to implement the rule of the legislature, and this portion of the import rule regarding cervidae was put in at the request of the industry in 2008. His recommendation would be to consult the industry and then whatever the Committee decides to do, he would implement. **Dr. Barton** said there are other options but they are more intensive processing of the animals on the front end, and that would be working the animals within that 30 to 60 day window and then again within 30 days for the brucellosis test, but that has been problematic for the elk producers.

Senator Corder asked now that this problem has been identified, what prevents the Department from developing a temporary rule that would resolve the problem without us having to reject this rule? **Dr. Barton** replied that he doesn't see anything that would prohibit the Department from doing that.

Chairman Siddoway described that one of the difficulties of bringing in elk from producers who are treating their animals in accordance with this requirement to match up with the withdrawal periods, is to bring them in before they go hard-horn, in the first few weeks of August. If animals are put into a tight pen where they're worked, and they turn hard-horn, the probability skyrockets that the animals could get hurt or killed or break horns. So it's important to get the testing work done before then. If the animals are treated within the flukicide period and get to the ranch to get acclimated for a few weeks, but then the animals are shot before the end date of the parasiticide, that poses a risk.

Chairman Siddoway shared how this problem frustrated a lot of elk producers last year. So he shared that with **Dr. Barton** and **Brian Oakey** and the idea came about that this would be a fix for this year, and then do rules for next year, with the hope that the Department would bring some ideas to fix the scenario.

Chairman Siddoway also said he doesn't see a problem with flukes in the industry today and asked **Dr. Barton** if he has seen a problem with growers and liver flukes. **Dr. Barton** replied that to definitively determine the presence of liver flukes in any species, particularly domestic cervidae, it is necessary to do a parasitic exam on the feces of the animal, which is not always 100 percent definitive, because they can be missed. But when an animal is slaughtered and processed, the liver wall can be thoroughly examined which would indicate if liver flukes were present. Because those carcasses aren't inspected in the facilities that are harvesting elk, nor is there state meat inspection, **Dr. Barton** said he can't speak for the staff if anything has been noticed, but he has not had any reports from those facilities that perform slaughter on cervidae of liver flukes being a problem.

He said there was a case of liver fluke in a domestic cervidae facility years ago, prior to his work with the Department, and he believes that was the genesis of the industry bringing forth this requirement. **Dr. Barton** said this is a long answer to a short question, but that no, he has not seen a lot of evidence of liver fluke.

Chairman Siddoway asked for a description of a typical liver fluke. **Dr. Barton** replied that again, it's a convoluted life cycle, with the intermediate host being a fresh water snail. Very small larvae leave the snail and get in fresh water, attach to vegetation and continue to develop. Animals come along and graze on that vegetation and they become infected. The parasite then sets up home in the liver. There can often be more than two or three flukes in one cyst in the liver. The body recognizes that as being foreign, so it tends to wall it off with a thick fibrous capsule. Those are readily observable in an infected animal.

Chairman Siddoway asked that if he dressed an animal and kept the liver and it was infected with flukes, it would be very obvious. **Dr. Barton** replied that it depends on if it was recently infected and if those cysts had actually had time to form and develop.

Senator Corder asked **Chairman Siddoway** for an understanding of what's being asked of the Committee, and if there is a need to reject the rule or support the Department in their expedited promulgation of a rule that would solve the problem, considering which of those is the industry's preference and why one over the other.

Chairman Siddoway asked **Dr. Barton** if there has been any request or an intent by the Department to promulgate any temporary rules for cervidae this year. **Dr. Barton** replied no, the Department has not had any requests to promulgate any rules in the coming year.

Chairman Siddoway stated that if it will take opening up the whole process with the Department or doing it here, he would prefer to do it here, and then producers would be able to tell their suppliers from out of state or out of country what kind of protocols they'll have to go through, and they wouldn't have to wait until next September for those rules to be submitted. That would be the only advantage of doing it this way, rather than the other way.

Senator Corder asked if since the industry promulgated the rule, and if it's rejected, if the industry then would be inclined to ask the Department to re-promulgate the rule for parasiticide anyway or would there simply be no mechanism for requiring that treatment? **Chairman Siddoway** replied that if it goes away, it goes away, but the Department still has the authority to maintain the health and integrity of the herd. Rejecting this rule would simply remove the requirement for that time frame. Anyone who is concerned about having a fluke problem would already have a regimen to take care of that problem anyway. It is just the time frame that is the problem.

Senator Schmidt asked to better understand the elk industry by asking about elk imported into the state for other reasons, whether its horns and velvet, how would this rule change that part of the industry and also how would this rule change affect the exporting of elk. **Dr. Barton** replied that this rule applies only to the domestic cervidae that are imported into the state of Idaho. Export requirements are dependent on the receiving state, and there are some other states that share domestic cervidae that have a requirement for treatment with a parasiticide, but he said the majority of them do not require it in their import requirements. Other than the timing of the requirement and having a narrow window to do both treatments without running elk through the processing facility twice, it's not an issue for other operations that are not harvesting elk with hunts. The withdrawal issue is not an issue for them because the animals are not being harvested right away. **Dr. Barton** said most of the domestic cervidae facilities that he worked on while he was in private practice used a flukicide treatment in their normal herd management plan.

Senator Pearce asked for clarification of how the rejection of a rule procedure works. **Chairman Siddoway** thanked and excused **Dr. Barton** and then invited to the podium, **Dennis Stevenson**, Administrative Rules Coordinator with the Department of Administration, to answer questions about the procedural protocol for this rule review.

Mr. Stevenson explained that this is a final rule, so it is not subject to a rule number, and there is no docket number. It would be handled exactly the same as if the Committee were rejecting a pending rule. Simply draft a concurrent resolution.

MOTION: **Vice Chairman Smyser** moved, seconded by **Senator Hammond**, to reject Section 600, subsection 02 only, of IDAPA 02.04.21. Motion carried by **voice vote**.

Chairman Siddoway said that to go forward now, the Committee needs another motion to send it to the Floor with that concurrent resolution.

MOTION: **Vice Chairman Smyser** moved, seconded by **Senator Pearce**, to draft a concurrent resolution to reject Section 600, subsection 02 only of IDAPA 02.04.21 to be sent to the Second Reading on the Senate Calendar. Motion carried by **voice vote**.

ADJOURNED: **Chairman Siddoway** called the meeting adjourned at 9:02 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary

AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Tuesday, February 07, 2012

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Review of minutes from January 31, 2012	Senator Corder Vice Chairman Smyser
RS21155	Relating to proceeds from sale of stray livestock	Vice Chairman Smyser
S1259	Relating to provisions governing the Idaho Wheat Commission	Senator Corder
S1236	Relating to provisions of the Commercial Feed Law	Lloyd Knight, ISDA

PRESENTATIONS

Wine Commission Annual Report	Moya Shatz Dolsby
Potato Commission Annual Report	Frank Muir

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Vick
Vice Chairman Smyser	Sen Nuxoll
Sen Corder	Sen Bock
Sen Pearce	Sen Schmidt
Sen Hammond	

COMMITTEE SECRETARY

Christy Stansell
Room: WW50
Phone: (208) 332-1330
email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, February 07, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Nuxoll, Bock, and Schmidt

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman Siddoway called the meeting to order at 8:00 a.m.

MINUTES: The Committee considered the minutes of the Agricultural Affairs Committee meeting from January 31, 2012.

MOTION: **Senator Corder** moved, seconded by **Vice Chairman Smyser**, to approve the minutes of January 31, 2012. Motion carried by **voice vote**.

RS21155 **Chairman Siddoway** introduced **Vice Chairman Smyser** to present RS 21155 relating to the proceeds from sale of stray livestock. **Vice Chairman Smyser** invited **Stan Boyd** to the podium for further information.

Stan Boyd, speaking on behalf of the Idaho Cattle Association (ICA), described the way the Unclaimed Livestock Proceeds Account works. He said that if stray livestock are picked up and the owner is not found, the Sheriff has to keep them for ten days until they can be sold. The proceeds are put into an account and the funds are kept for 18 months. At the end of that period, if no one has claimed the proceeds, the funds are transferred to the Endowment Fund Investment Board and the monies are invested in the Public Schools Permanent Endowment Fund. Only the interest earned on those monies are spent on K-12.

Three years ago the Idaho Cattle Association created the Idaho Cattle Foundation, whose five Board of Directors are all past presidents of the ICA. The purpose of the foundation is exclusively for charitable, scientific, literary and educational purposes. RS21155 would redirect where the proceeds go. Instead of the "public school fund" it would go into the miscellaneous revenue fund for appropriation to public education and/or higher education programs that advance the livestock industry and agricultural in general, as directed by the Idaho Cattle Foundation. For example, it could go to University of Idaho for research or to fund "Ag in the Classroom" for fourth graders.

The five year average of funding from the unclaimed livestock proceeds is \$33,800. It was as low as \$18,000 in 2007 and as high as \$67,000 in 2010. Mr. Boyd testified that since the funds come from livestock, the Idaho Cattle Foundation would like to have input on where the funds are applied.

MOTION: **Senator Bock** moved, seconded by **Senator Nuxoll**, to print RS21155. The motion carried by **voice vote**. **Vice Chairman Smyser** will carry the bill on the floor.

Chairman Siddoway introduced **Senator Corder** to present S1259, relating to provisions governing the Idaho Wheat Commission. **Senator Corder** noted that the only controversial part of this bill is the raising of the cap of the assessment from two cents up to five cents, and the last time there was a change was in 1982. He pointed out that the Commission is not suggesting it will go up immediately, but the Commission would like the ability to do so. **Senator Corder** invited **Dar Olberding** to the podium for further information.

Mr. Olberding says the proposal not only gives the ability to raise the rate, it also gives the ability to remove a Commissioner and to allow the Commission to hold a referendum. **Mr. Olberding** yielded his time to other people impacted by this proposal, first introducing **Joe Anderson** of the Idaho Wheat Commission. Supporting documents related to **Mr. Anderson's** testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #1)

Upon the conclusion of **Mr. Anderson's** testimony, **Senator Nuxoll** asked about a controversy over a recent rate increase attempt. **Senator Corder** clarified that the conflict involved the Barley Commission and not the Wheat Commission. **Senator Nuxoll** commented she thinks it's great that funding will go toward research, but she wished to share a comment from a constituent who preferred the increase to be by one cent at a time.

Mr. Anderson responded that the Commission did an advisory poll in 2009 with a ballot to all 4500 wheat growers in the state and it came back 75 percent positive that growers would support a one cent increase. With the passage of the bill, the Commission will have the authority to do advisory polls, referendum, whenever they see the need. **Mr. Anderson** said more important than what the actual rate is what the growers want to see happen. If they see opportunities that will require more money, the Commission's experience is that they're willing to pay. He said the opportunities and challenges are what are important, and the money is just how they get it done.

Senator Vick asked about the purpose of the language regarding the referendum. **Mr. Anderson** replied that the Commission felt it needs to be in the authorizing language to establish that the Wheat Commission recognizes there will be the need for referendum from time to time. **Senator Vick** asked what the referendum would be used for and if they're binding or only informational. **Mr. Anderson** answered the Wheat Commission has a good track record of trying to do what the growers want them to do. The referendum are not legally binding, only advisory. **Senator Vick** asked about the tax being imposed on the crop reduction program and **Mr. Anderson** clarified that every bushel that's grown in the state of Idaho is subject to the assessment.

Chairman Siddoway asked what discussions were held during development of the bill about a refund provision. **Mr. Anderson** said there was discussion about a refund provision, but that the growers were not insistent that there be a refund provision. He stated that such a provision would make it difficult to establish reliable budgets, so the Commission has not sought the provision at this time.

Vice Chairman Smyser asked for clarification on the percentage of increase in the assessment. **Mr. Anderson** said that if the assessment is at two cents and goes to three cents, it would be a 50 percent increase. He pointed out that as farmers, there are other dockages, so the wheat assessment is minimal in comparison.

Chairman Siddoway asked the members of the audience who wished to testify to please make their comments as quickly as possible as there is a large number of people wishing to speak, and many items to cover on the agenda.

Blain Jacobson with the Idaho Wheat Commission came forward to introduce three Idaho Wheat Commissioners: **Gordon Gallup**, from Idaho Falls; **Jerry Brown**, from Soda Springs; and **Joe Anderson**, from Potlatch. Other commissioners are in Burley for the Cereal School. He also introduced members of the Idaho Grain Producers Association: "**Genesee Joe**" **Joe Anderson**, from Genesee; **Robert Blair**, from Kendrick; and **Clark Kauffman**, from Twin Falls. These are wheat industry leaders elected by farmers. Also here are members of the Farm Bureau, including Chairman **Mark Trupp**.

Mr. Jacobson referred to the tri-fold brochure that was presented in his annual report last week to point out the fluctuation in the wheat assessment over the years. He said it has been over twenty years since the Commission has worked on the legislation. He stated the Commission is asking for the authority for five cents so they don't have to come back again for a number of years, noting that they have been talking about a penny increase as they've discussed it in Cereal Schools. **Mr. Jacobson** also stated that they have more growers opposed to a refund provision than are supportive of it. He said that is because the majority want the increase to see an investment in research.

Mr. Jacobson shared how the Commission went about reaching the growers for their survey and held up the large file of responses, if anyone desired to see them. He noted that an independent third party cross-referenced the responses to ensure there was not duplication. They had positive results from a survey in 2009 and decided to do another one in 2011, balanced by county, to determine if there was still support. Results indicate even stronger support, with a three to one ratio in favor of giving Commissioners the authority to raise the assessment.

Mr. Jacobson reviewed the budget he provided during the annual report last week, saying he believes the Commission has been running a tight financial ship. He said they compare their Commission with other states' commissions and the Idaho overhead budget is lean and efficient. He said this demonstrates how the Commission's three main focuses of Research, Grower Education and Market Development work well together.

Mr. Jacobson introduced **Gordon Gallup**, Grower Education Chairman, and **Steve Wirsching**, Director of Market Development, U.S. Wheat Associates, West Coast Operations. **Mr. Jacobson** said the Commission encourages passage of this bill, noting that the industry is changing rapidly, and they'd rather be a part of the changes.

Senator Schmidt asked how the Commission verifies the votes in a referendum.

Mr. Jacobson said every ballot had a control number, so the third party could make sure there were no duplicates. The ballot also asked for a number of bushels the producers made, so the Commission could get a total on a weighted basis and based on the straight vote. He said the results also showed that the larger the grower, the more willing they were to invest in the industry, and the younger the grower, the more anxious they were to support it.

Steve Wirsching approached the podium to share some international export industry information. He said the U.S. Wheat Associates is a non profit organization that represents U.S. farmers in the international market. Idaho is one of the 19 member states. He said the sole purpose of the organization is to improve the profitability of U.S. farmers by increasing overseas sales. In Idaho, slightly more than half of Idaho's wheat is exported. In south Idaho, much of that wheat goes to the domestic industry. In north Idaho, 95 percent goes into the export market.

Mr. Wirsching said the U.S. Wheat Associates receives matching dollars from the federal level, with a three-to-one match. The member states asked the Associates to research the return on investment, and Cornell University project showed that for every dollar that was invested, \$23 went back to the grower. **Mr. Wirsching** went on to describe projects in China and Mexico that have resulted in significant increase in export sales.

Mark Trupp, Vice President of the Idaho Farm Bureau shared the Bureau's support of the proposal, saying that the Commission has proven when the reserves were sufficient, they lowered the assessment, and that they have managed the reserves well, to better the growers and the industry. He said the Bureau appreciates the referendum provision, which allows them to have a say in what the Commission does with growers' money. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #2)

Chairman Siddoway asked if anyone present desired to speak in opposition to this bill. As there were none, **Chairman Siddoway** asked for the pleasure of the Committee.

MOTION:

Senator Corder moved, seconded by **Vice Chairman Smyser**, to send S1259 to the floor with a do pass recommendation. In discussion, **Senator Vick** expressed his concerns about the size of the increase and that the referendum are not binding. **Vice Chairman Smyser** commented that in light of all the cuts in research, she recognizes the importance of public-private partnerships like the Idaho Wheat Commission is doing. The motion carried by **voice vote**, with **Senator Vick** being asked to be recorded as nay. **Senator Corder** will carry the bill on the floor.

S1236

Chairman Siddoway introduced **Lloyd Knight** of the Idaho State Department of Agriculture (ISDA) to present S1236, relating to provisions of the Commercial Feed Law. **Mr. Knight** began by saying that per the ISDA Director, the Department by definition, is not for developing policy, it's for implementing policy. However, the Department does go through a process of communicating with stakeholders about changes that need to be made in a program, which is how the changes to the Commercial Feed Law have come about. He said, "We are under no illusion that we have picked all the right solutions for everybody around the program or around the issue, but we've certainly done the best we could to find the right fix."

Mr. Knight shared the responsibilities of the ISDA in the Commercial Feed Program as well as what the program entails "at a glance." He pointed out the program has grown significantly over the past several years with now nearly 900 registered feed companies. He shared they performed nearly 4,000 tests on nearly 1,100 samples taken. Tests include verifying label compliance, label guarantees, looking for adulterants or toxins, and heavy metals. Of those, 146 resulted in Stop Sales, which means those products are pulled out of distribution until those companies can correct the issues.

Mr. Knight said the Department did a Zero Based Budgeting review of the Program. They started communicating in March of 2011 with a group of stakeholders that included more than 40 individuals and companies, trade associations, those that represent industries that consume the products, and those that represent industries that manufacture the products, and legislators who had interest in the issue. They held one big group meeting and a number of smaller one-on-one conversations over the course of the last year. Ultimately they sent out legislation for comment in October 2011.

Mr. Knight said what they heard from stakeholders that resulted in the legislation before the Committee today include concerns about how cumbersome and costly the program had become, mainly focusing on tonnage reporting. Some complained that the Department appeared to be a tax agency. The Department had trouble focusing on tasks that seem to be most important for a program such as this. Companies that ship in to Idaho had trouble tracking what was coming into the state. In the modern distribution center that we have, products can come from several marketing chains and distribution chains to get into Idaho.

Mr. Knight said the Department focused on key program objectives: Verify truth in labeling, ensure consumer and animal safety, and ensure a fair marketplace. He said they'd like to do more inspection and sampling in the marketplace, in relation to some of the changes coming to accommodate the federal Food Safety Modernization Act. He said they also want to ensure accountability of the Department.

Mr. Knight went on to outline the specific changes to the statute, line by line. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #3)

Senator Schmidt asked about inspections and how one in four resulted in violations and one in eight required stop sales, and if that is a high frequency or what is expected. **Mr. Knight** replied that number seems to be consistent from year to year, so that is expected. Minor violations have a variance that is allowed by AOSA standards. This has become more of a "service" the Department provides as the testing may find some things that they didn't find themselves in their testing within their distribution chain. Distributors and manufacturers do sampling every day, usually to make sure the products meet contract requirements, but they may or may not be testing for certain adulterants or consistency of rations in mixed feeds. Sometimes the Department has found medications not in the levels they need to be or may have been medications where there should not have been.

Senator Corder commented that he's not totally convinced that this legislation is what needs to be done. He asked for more information on how the Food Safety Modernization Act might impact the Department and what changes might still need to be made to this proposed Commercial Feed Bill to bring it into conformance with the new federal act.

Mr. Knight replied that it has been a year or two since it passed, but they still have not published the CFR regulations, so the Department's goal is still unclear. He said he wouldn't be surprised if there are additional changes that need to be made to the program to accommodate the federal rule. The state of Idaho does not make inspections of FDA licensed facilities, so the Department's role may be limited unless the industry comes to the Department and asks for their involvement.

Senator Corder asked what the Department speculates might be their involvement, and do they expect a requirement for tonnage reporting on feeds that travel the interstate. **Mr. Knight** said that kind of information could be the same information we get from registration. He said he thinks the role the Department will play will be actual inspections in the field.

Mr. Knight said part of the Department's discomfort during their internal review and discussions with stakeholders is the limited resources and people they have to assign to these programs. He said he's not in the position with the workload they have with tonnage to switch gears and deal with the FSMA issues and activities should they arise. Inspectors have a dozen programs they deal with, and other limitations. He said if they were able to get some of the workload of tonnage reports off their plate, they would be in a better position to react more quickly when the CFR is complete. He said that is the part they did anticipate, even though they're not sure what all the details are and what their role will be.

Senator Corder pointed out that the Committee has received a number of letters from other companies that suggest another alternative, a way to relieve administrative burden from the Department and other stakeholders and find middle ground. He asked **Mr. Knight** what other alternatives were looked at when the Department was assessing where to go with this program.

Mr. Knight replied that when they sat down to look at all the alternatives on how to structure the program, with tonnage and registration, they looked at what other states have done. One option is doing what the Department does now, with tonnage and registration. Another option is that some states have done is what is being proposed, as registration only. There are many hybrids that are across the board in that middle ground. Some states have gone to licensing facilities, whether for distribution or manufacturer, and then added tonnage report on top of that. Some do a straight license for distribution or manufacturer and do no tonnage. There really isn't a great deal of consistency, because out of all the states, there are 30 that require product registration, there are 35 that require tonnage, there are 35 that require tonnage and registration.

Mr. Knight noted that of course that doesn't all add up, because a lot of states do different splits between classes of products. Some states treat pet and bagged feed separately than they do bulk shipments of commodities and mixed feeds. Four states do brand licenses, and they define those licenses as being under a whole brand and not individual products. Fourteen do facilities licenses and thirteen do company licenses. So in summary, it is across the board and the Department talked about the options, and when it came down to why they picked this option, it really focused on what the Department believed is more of the service that needed to be provided under label review and registration.

Some states have gotten away from label reviews, and there are now only a handful of states that do label review in any detail at all. The Department's concern was that if they got out of the label review business, it would fall on someone else to do that testing later. Some suggested doing label review in the field by Department inspectors. Inspectors deal with most of the programs already and don't really have the full training or time to do all the label review in the field the same way they do in a handful of other states. At any given time, the Department has one to three people in the office dealing exclusively with label review, and they're good at it. They are good at catching ingredients in food that shouldn't be there. They have found ingredients that are prohibited from being in certain species' feed and were able to make sure that didn't get into the marketplace.

Mr. Knight said, "So, did we review all the alternatives, yes. Did we pick the one that we thought best fit the needs for Idaho based on what we were hearing from multiple stakeholders, although not all of them, but obviously we know we didn't pick the option that pleased everybody."

Senator Corder asked for more information about a "model law." **Mr. Knight** replied that when **Mike Cooper** spoke earlier this session, he referenced the official publication, and there is a section in that publication for a "model bill." Nearly every feed statute in the country starts with that model bill, including definitions of feed, how registration should work, and how licensing should work. There are options that states have taken from the model bill, and other states that don't follow it at all.

For example, Oregon doesn't register pet food. Montana treats pet food differently. So there is a model, and there are national companies that would like all states to do it the same, but not every state has chosen to follow the model bill. There will be differences in the states.

Senator Pearce pointed out that the fiscal note says proposed changes in the fee structure may reduce overall program revenue, but some of the letters from other companies indicate it will drastically increase their costs. **Mr. Knight** replied that there are 16,000 products registered in the program currently. That number can vary by as much as 2,000 at any given time of the year with products that come in and out of the marketplace.

Out of the 800 companies that are registered, some companies have two products registered, and some that have 1,300 products registered. Out of those products, two may be a high volume commodity with high tonnage. Some companies that pay the equivalent of \$7,000-\$8,000 per product per year in fees. Some companies are paying only \$8 to \$9 per year per crop. They all pay a \$5 registration and they all pay tonnage based on that. **Mr. Knight** said this will impact some companies differently. Those companies that register 1,300 products, that if a fee is set in rule, will in all likelihood will be more than what they're spending now.

But keep in mind that with 1,300 products, the Department has to do a label review for the marketplace. Some companies will say they don't know for sure those products are coming and they're not sure those products ever made it here, and by virtue of their tonnage reports, all of those products are not being captured, because it seems like a pretty low number for those tonnage reports. **Mr. Knight** said there is still a workload associated with those products that is probably worth a lot more than \$7 or \$8 or \$9 a product. So certainly there will be companies that have to pay more in total fees and there will be some that have been bearing a significant part of that burden that the Department could never put in \$8,000 worth of work for that product.

Mr. Knight said overall, in the program, there will be some reduction in revenue, because some companies that would register their whole portfolio may not do that now. They may become more knowledgeable about what products are coming to Idaho. So that revenue could decrease. But it will be more equitable to recognize that there is a lot more work associated with those 1,300 products than \$7 or \$8. And probably a lot less work associated with the other products than \$7,000 or \$8,000.

Senator Pearce asked how much did the industry come to the table on this legislation and if there was input from everybody or just Idaho businesses and not out of state businesses. **Mr. Knight** replied that in the group of stakeholders, the Department tried to have a cross section of everybody, from a company who manufactured dog treats in their kitchen who doesn't sell 100 pounds of these treats per year, to larger companies that have both pet food and livestock feed, to national companies who have operations outside of the state that distribute into the state, some from in state and some from out of state.

Mr. Knight said the Department communicated with everyone, but not all of them responded. Even in December after the proposal came out in October, the Department was still trying to get them to respond, and some did not reply until the print hearing in January. So they all had an opportunity, some responded and some didn't. But the Department tried to have a good cross section that represented all those interests.

Doug Jones, representing a coalition of national and regional trade associations and five large feed manufacturing companies who operate nationally, approached the podium to testify. He spoke in opposition to S1236. **Mr. Jones** stated the group he represents don't disagree that it's appropriate to review the statute, update it, and make some changes and improve it both for the Department and for the people who buy and sell feed in the state.

Mr. Jones stated that some of the companies did indeed participate starting with the initial inquiry in March 2011, some via conference call. They did submit comments and by June 2011, **Mr. Jones** said they thought they had an understanding of the direction the Department was going to take with updates to the statute. He stated he understands the Department has to do updates on a certain legislative time line. When the draft of the legislation was sent out in late October, he said some of the companies thought the process had gone 180 degrees from where they thought it was going to go and that it was contrary to the comments they submitted earlier in the year. **Mr. Jones** said they are concerned about what happened after their comments were submitted.

Mr. Jones submitted a series of letters and testimony from the companies that he represents for the Committee's consideration, noting a few highlights. Two companies, represented individually as companies, operate in the state: Cargill has a plant in Rupert and ADM has a plant in Twin Falls. Some of the others have companies in adjoining states that ship into Idaho, so he said, they are Idaho companies doing business here.

Mr. Jones gave an example with one of the biggest consumers of livestock feed being the dairy industry. The plants in Rupert and Twin both service that industry, so they are concerned because they do a significant volume of business there. Written testimony talks about the importance and cost of livestock feed, and that it is a significant portion of the production cost of an animal. The letters also talk about their participation in the process, their comments to establish an appropriate facility licensing fee, keep tonnage reporting with associated fees at an appropriate level, and their request to repeal the requirement to register their products and pay product registration fees. They think the legislation is going the opposite direction of what they would prefer to see happen. **Mr. Jones** said these are large companies that would like to see some consistency across the states. He said they couldn't make these proposed changes until they got to read the bill in October.

Mr. Jones said the letters say they are "strongly opposed" to these changes and they feel the proposal is inefficient to both them and the Department. He said the companies feel that within their own registration departments, for their own protection, they will register every product they have in Idaho, for a couple of reasons: They don't always know when a product is going to show up in Idaho, especially in the pet food industry; and, for their own internal costs they will register everything. They estimate the fee, to be set in rule, will go from \$5 to roughly \$40. **Mr. Jones** says he personally doesn't object to the Department having the authority to adjust the fee.

He said the companies feel that they will submit all of their labels, which will increase the burden on the Department to review the labels, some of which will probably never show up in Idaho. But they will submit them because they need to protect themselves. He said the companies' processes are such that they would rather do it once a year and submit everything and write one check, because in the cost of writing the check to register a label is the accounting time in these companies, and that drives the cost up.

Mr. Jones said his coalition's second objection in going away from tonnage, is if tonnage reporting is done properly, it would lead the Department to know what products are in those tons and where the most emphasis for testing might need to be. He said he thinks the Department would say the testing process is not entirely efficient, especially dealing with truckloads of feed. By the time the Department takes a sample, runs it through the lab, gets the results back, the cows long ago ate the feed. He said the Department needs to improve the testing process.

It is true that this legislation will change the whole funding scheme of who pays what, because there are products that are high volume products, and they are single products. It will shift that burden to companies who only have small amounts of products, but pay for some of that, even though those products may be vital in that market. The coalition is not in favor of making that major shift.

There is a new federal act that was signed by the president last January that is going to require some modernization and change of regulation throughout the industry. **Mr. Jones** said he concurs with **Mr. Knight** that the rules haven't been written yet, and that the Department doesn't know what the responsibilities might be, and it could be delegated to do some of these inspections, which might change what the Department does with this feed legislation statute.

In regard to what other states have done, there are 28 states that have gone toward tonnage reporting, increased that, and in some cases with a facility registration fee, generally about \$100. **Mr. Jones** said the industry feels that label review is an antiquated system, not that it shouldn't be done at all, but that is not where the industry is today.

Mr. Jones said the group that he represents all oppose the bill and request that the Committee hold this until next year, with a pledge that they will work with the Department through the summer to create an equitable balance between tonnage, registration, facility license or whatever combination that might be that better represents the whole industry. He also asked to point out that has been no comment from the fish industry, where 85 percent of the trout production in North America occurs in southern Idaho. Feeding them is very important to Idaho. **Mr. Jones** also stated that 64 percent of the labels the Department reviews are in the pet food industry and only 28 percent of the revenues come from the pet industry. He suggested looking at splitting pet food away from commercial livestock feed and treat it in a different way, because as he said, **Mr. Knight** noted that pet food is one of the harder things to track because of all the different retail operations, grocery stores and big box stores.

Mr. Jones said there is model legislation and he could make available a copy of relevant sections if needed, as well as model reporting forms for tonnage, that he said are relatively simple and could be modified to suit Idaho's need. He said the industry feels those are manageable and believe it will be easier for the Department, too. **Mr. Jones** repeated his request to hold this bill for another year.

Senator Nuxoll asked what cost more for smaller businesses, tonnage or registration. **Mr. Jones** said he's not sure he can answer that correctly, as it varies from business to business. The more tonnage one has, the more one pays. If a company sells high volume, tonnage will cost more. If a company sells more types of products, the registrations will cost more. **Senator Nuxoll** asked if hay is included. **Mr. Jones** deferred the answer to **Mr. Knight**, and **Chairman Siddoway** said it is not included.

Senator Corder commented that it is clear that there will be a cost shift, and that **Mr. Knight** said that. When it comes to the administrative function of the state, someone who ships in 100,000 tons of feed and requires one inspection and one test and one person to check that for ten minutes, should that person who ships large amounts have a greater responsibility, in current law, than the companies **Mr. Jones** is representing, that may be shipping 1,000 labels, and the state has to hire three people to do that year round to compensate.

Senator Corder asked about a comment in the letters submitted by **Mr. Jones** that say it costs the companies more to write a second check midyear and **Senator Corder** said he's struggling with the concept and asked why does it cost more to write two checks rather than one.

Mr. Jones replied that if it was the Senator or himself writing a check, it wouldn't cost much more, but for a large company with large accounting departments and bureaucracies, it takes time to pass it through multiple hands, and the cost of doing that processing is more than the value of the check. He said there is also the risk and liability that if they don't register a product and it's not labeled, then they have a problem: a problem with the company that requested the shipment if they don't ship it, or a problem with the Department if they do ship it without the label and registration, if that leads to a stop sale or a fine. **Mr. Jones** said it's more cost than just sitting down and writing a check.

Senator Corder said he saw the letters with comments that were submitted to the Department in June and then later in October they expressed concerns, as **Mr. Jones** testified, that the Department took a 180 degree turn, and they're all unanimous in that claim. **Senator Corder** asked if the companies feel the Department ignored them or why did the conflict occur. **Mr. Jones** replied that he was not involved in the discussions over the summer, and that he can only relate what he's been told by the companies.

Mr. Jones pointed to the documents that the companies have submitted and that it wasn't until the draft legislation came out that it went a different direction. **Mr. Jones** said he was contacted by one of the companies who said this didn't go where they thought it was going, and that was about the first of November, and that was his first involvement in this legislation. He said he cannot answer the question about what their expectations were or what comments the Department may have made, only that once the draft came out in October and then when the print hearing was held, that's when they became more active.

Mr. Jones said the companies did not comment directly with Department, rather they commented through the trade association, expecting them to represent their views, so there is no documentation to the Department, only to the trade association.

Supporting documents related to **Mr. Jones'** testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #4)

Paul Marsh of Scoular Company approached the podium to speak in favor of S1236. He has a rail truck transport facility in Jerome, Idaho that primarily serves the beef and dairy industry in the Magic Valley and in the Treasure Valley, some swine and some poultry. He shared his perception in the past few years that those industries are paying a great portion of the costs associated with it and aren't getting any of the benefits. For example, from his company alone, the forms that he fills out quarterly, they pay anywhere, directly or indirectly, \$22,000 to \$25,000 per quarter based on the tonnage tax, and that gets passed right back to the people. They're the ones ultimately paying for it.

Mr. Marsh shared that he looked online to see how many tests are being done each year. In 2001 to 2005, for the 15-20 commodities that his company handles, he counted sixteen tests in a five year period. Since 2006 to 2011, there has not been any reporting by the Industry. But speaking from experience at his facility, they came in and took one sample between 2006 and 2011. Last year, they handled in excess of 6,000 cars of feed grains and commodities. He said, "The dairymen and the beef men aren't getting any bang for their buck out of this. It is way disproportionate." He added that's why they support this bill because if the system goes to the registration fees, they will register between fifteen and twenty commodities. That's a great reduction in price for those guys, and that is who he is concerned about. Their costs will go down and the service and the quality of the feeds will remain unchanged.

Dr. Tim Bodine, President of PerforMix Nutrition Systems, approached the podium to speak in favor of S1236. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #5)

Steve Busby, Idaho Operations Manager of JD Heiskell and Company approached the podium to speak in favor of S1236. He said they are the largest feed manufacturing and distribution company in the state of Idaho. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #6)

Bob Naerebout, Executive Director of the Idaho Dairymen's Association, approached the podium to speak in favor of S1236. He said he wanted to make sure the Committee understands that **Lloyd Knight** absolutely did contact everybody and did a lot of follow up to make sure their thoughts were included. He said **Mr. Knight** was almost "badgering" them to make sure he was getting responses. **Mr. Naerebout** said the Dairy Association leaders support this legislation. **Mr. Naerebout** said he didn't know if anyone from Food Producers was in attendance to testify but he knows that **Mr. Knight** included Food Producers in the discussions at least twice, and that Food Producers supports this bill, as well.

Brent Olmstead, registered lobbyist representing Milk Producers of Idaho, approached the podium in support of S1236. He said Milk Producers is not just dairies, as the organization also has associate memberships that include many feed dealers, who said they were excited about not having their staff have to spend so much time on tonnage reports because it would create more efficiencies in their companies. **Mr. Olmstead** said over the years, the bulk feeds that the dairies use have been paying for the program, and the pet food industry has been getting by on the backs of bulk food industry. He said dairies receive a lot of loads and it was about \$6 per load but with this legislation could drop to \$2 per load, which would result in significant savings to the dairies and indirectly to consumers. **Mr. Olmstead** said the label review that **Mr. Jones** called antiquated, is important to the end users like him because he wants to know what that feed is supposed to provide. **Mr. Olmstead** said **Mr. Knight** was also in contact with him and his organization numerous times wanting input.

Lloyd Knight of Idaho State Department of Agriculture was asked to return to the podium. **Vice Chairman Smyser** said there appeared to be discrepancy about whether all industries had adequate time for discussion. **Mr. Knight** said everybody got the same communication and had the same opportunity and invitations to participate, saying that he had very clear conversations with people who are now opposing the proposal, and that he hasn't heard from some who were opposed. The Department addressed the issues they heard the most and the loudest. **Mr. Knight** said he didn't want to come before the Committee with legislation that was not complete, but that he was discouraged at the print hearing because it would have been helpful, if the Department was that far off the mark, to have heard from these people in October or November.

Senator Pearce asked if the in state companies are happy with it, and out of state companies are not, why that is. **Mr. Knight** replied that even some companies that are opposed to this could have a wash in the fees when it changes from one format to the other. Some will have a reduction, some will have an increase. In state companies are easier to get to with tonnage reports, label reviews and samples, so it may feel like there's more focus on them than on the national companies. His authority to go across country to audit books for tonnage is different than going across town or the state. **Mr. Knight** said that the product mixes are different, in that out of state companies have multiple products, compared to the in state companies, and that out of state companies have to make the business decision about what products are going to Idaho, and which to register. In the current system, it's very easy to register 1,300 products, because it's only \$5 per product, and knowing that their tonnage report will show something different, depending on what made it into the state.

Mr. Knight said the Department does label review on every one of these products, and that will not change under this proposal. So every time a company registers a product, whether it's two products or 1,300, they're doing that work. That will not be a new burden on the companies. But what will change is the companies' decision on what they're going to register. Even now the Department finds products that are not registered and they have to track it down. Those companies that are that large are always going to have products in the marketplace that they don't expect to be there. **Mr. Knight** said the difference in focus that **Senator Pearce** is referring to may just be that the Department can't always get to the out of state facility or corporate office.

Senator Pearce asked about the regulation of DDGs. **Mr. Knight** said the Department does track DDGs in the market, which is actually a good example of tonnage reports, and how a company can receive a product from multiple sources for a product they have registered. When they submit their tonnage report, the report where the DDGs came from, and the Department has to check registration, double check tonnage and audit that track for each one of those DDG sources, all for one product. They're looking to ensure that the product wasn't paid on before. If ADM sold DDG to Schouler, the Department wants to make sure ADM didn't already register and pay tonnage on it.

Senator Pearce asked if the Department is regulating things that don't necessarily need to be regulated, for example, corn from the Midwest. **Mr. Knight** replied one of the reasons for changing the definition of commercial feed, where it talks about exemptions for by-product in rule, is that they do very few exemptions now in rule, because some exemptions are called out in statute, and a lot aren't. What the Department wants to do is, in rule, have everyone provide a list of by-product exemptions, because there are probably a lot of products that don't need to be registered as feed. Some by-products are mixed with other products when they go to be pelletized, and that changes the character of that product, so it may still need to be regulated. The Department would like to go through all that with stakeholders up front and in the open.

Senator Vick commented that one person who wrote in opposition stated the legislation would discourage them from doing business in Idaho, and asked if Idaho risks losing availability of certain products if the legislation passes. **Mr. Knight** replied that is hard to anticipate, but suggested if there is a demand for the product, it will probably still be here, and he'd be surprised if a product was not available, because someone will register it.

MOTION: **Senator Corder** moved, seconded by **Vice Chairman Smyser**, to send S1236 to the floor with a do pass recommendation. The motion carried by **voice vote**, with **Senator Pearce** and **Senator Hammond** voting nay. **Chairman Siddoway** will carry the bill on the floor.

PRESENTATION: **Chairman Siddoway** invited **Moya Shatz Dolsby**, Executive Director of the Wine Commission, to the podium for her presentation of the Wine Commission Annual Report. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #7)

Vice Chairman Smyser expressed appreciation to **Ms. Dolsby** for the Commission's diligent efforts in the tourism industry in Canyon County.

Chairman Siddoway asked how an increase in a wine tax might affect sales of local wines, and if people would still buy a bottle that cost \$26 if it were to become \$27. **Ms. Dolsby** replied that the wine industry is not opposed to a wine tax, and would welcome a discussion about where the funding might be appropriated if assessed.

PRESENTATION: **Chairman Siddoway** invited **Frank Muir**, Executive Director of the Idaho Potato Commission, to the podium to present the Idaho Potato Commission Annual Report.

Chairman Siddoway asked why the seed assessment brought 50% over the original budget. **Mr. Muir** indicated that the seed industry has a voluntary assessment as they want to be more involved in the industry. **Chairman Siddoway** asked about the effect of the potato cyst nematode (PCN) had on the Idaho potato industry. **Mr. Muir** said that when PCN was found, several international markets were closed, but the Idaho Potato Commission worked rapidly with the USDA and ISDA to formalize a plan to demonstrate the state is aggressively finding and regulating this quarantine pest. They were able to minimize the impact and reopen every market except for Japan. They continue to work with the USDA on a five year plan to improve regulation and sanitation, and to demonstrate that it's critical to maintain an international market for Idaho potatoes. Idaho still has a \$7 million per year commitment from USDA for regulation and eradication of PCN.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #8)

ADJOURNED **Chairman Siddoway** called the meeting adjourned at 10:28 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary

AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Thursday, February 09, 2012

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Review of Minutes from February 2, 2012	Senator Schmidt
RS21163C1	(1) Relating to the control of depredation of wolves	Chairman Siddoway
RS20915	(2) Relating to minimum standards and definitions of a "dangerous" dog	Senator Corder
RS21216	(3) Relating to provisions for cruelty to animals	Stan Boyd
RS21198	(4) Relating to the Barley Commission	Dar Olberding
H 412	(5) Relating to the Idaho Grape Growers and Wine Producers Commission	Roger Batt
RS21149	(6) Relating to rules governing the Importation of Animals, specifically domestic cervidae	Chairman Siddoway
PRESENTATION	Idaho Rangeland Resource Commission Annual Report	Gretchen Hyde

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway
Vice Chairman Smyser
Sen Corder
Sen Pearce
Sen Hammond

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Christy Stansell
Room: WW50
Phone: (208) 332-1330
email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, February 09, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman Siddoway called the meeting to order at 8:00 a.m.

MINUTES: The Committee considered the minutes of the Agricultural Affairs Committee Meeting from February 2, 2012.

MOTION: **Senator Schmidt** moved, seconded by **Vice Chairman Smyser**, to approve the minutes of February 2, 2012. Motion carried by **voice vote**.

RS 21163C1 **Chairman Siddoway** passed the gavel to **Vice Chairman Smyser** so he could approach the podium to present RS21163C1, relating to the control of depredation of wolves.

Chairman Siddoway began his statement by declaring his conflict of interest, as he is a sheep rancher and has personally suffered losses the past several years. **Chairman Siddoway** said he has suffered \$30,000 to \$50,000 in losses to wolves over the past three years in his company and this bill is a result of those losses. **Chairman Siddoway** met with a group of eight County Commissioners who told him that the monies that come from the federal government through the Office of Species Conservation for Idaho is \$100,000. There were submissions of over \$500,000 for losses of verified kills for those monies. So there was about 20 cents on the dollar payment available, and some losses were not paid at all.

Chairman Siddoway outlined the proposal, showing it has two sections that say virtually the same thing. One section he called a "hot pursuit" section, in which one has 36 hours from the time a loss is suffered to go after the wolves with any means available to kill them. After the 36 hour time line has ended, then a permit from Department of Fish and Game would be required for any further pursuits.

Chairman Siddoway explained that currently, anyone who suffers a loss has to get a permit that is commonly valid for 60 days, which can sometimes be extended. So 60 days after the permit is issued, one can still go out and hunt the wolves. What this bill really does is ask for the use of tools that are currently not legal to use.

For example, aerial hunting of predators is currently only permitted for coyotes and foxes. Wolves are considered a "big game" animal and cannot be hunted aerially. **Chairman Siddoway** said the law needs to be changed, asking for permission to do aerial hunting and that any weapon be used.

He said the proposal also asks for permission to use artificial light, because most losses occur between 2:00 a.m. and 3:00 a.m. when sheep herders are out with a water truck and a flash light, and often in an area where the truck cannot go very far. Most losses occur where there are not roads. With this proposal, night scopes on rifles would be allowed. It would also allow the use of live bait.

He said of course the intent is not to have the wolves attack the live bait, because a corral with a high fence of at least four feet would be constructed, and traps placed around it to catch the wolves before they attack. Currently trapping of wolves is allowed in Idaho, but only north of the Salmon River. Trapping is currently not allowed in southern, eastern or western Idaho.

Vice Chairman Smyser asked what is used for live bait. **Chairman Siddoway** answered that in his case, he would build a corral about 80 feet by 100 feet with a few sheep in the corral surrounded by traps, so when the wolf pack comes, they'll circle the corral and get in the traps. He stated other people might use a dog to draw the wolves in, noting this is not a "cruelty deal" because there is no intended harm to the dog. The intent is that keeping the dog fat and happy to bark and whine will then attract the wolves so the wolves can be shot.

Chairman Siddoway noted there was some concern that this proposal might jeopardize the de-listing or add flame to the fire that some pro-wolf groups might get more signatures for petitions. When one applies for a permit from the Department of Fish and Game, they may not give a permit at all if the wolf population has been in decline, or they could give permission to take out a whole pack. **Chairman Siddoway** said in reality, he's been hunting wolves really hard for three years and hasn't even shot one, nor even seen one, so they need the tools to help protect their private property.

Senator Corder moved, seconded by **Senator Nuxoll**, to print RS21163C1. Motion carried by **voice vote**. **Chairman Siddoway** asked that the record show that he recused himself and did not vote on this motion.

Vice Chairman Smyser returned the gavel to **Chairman Siddoway**.

RS20915

Chairman Siddoway introduced **Senator Corder** to present RS20915, relating to minimum standards and definitions of a "dangerous" dog. **Senator Corder** stated this legislation passed the Senate with significant majority last year and found some corrections in the House and that the issues were resolved over the summer.

MOTION:

Senator Pearce moved, seconded by **Vice Chairman Smyser**, to print RS20915. Motion carried by **voice vote**.

RS21216

Chairman Siddoway introduced **Stan Boyd**, with Idaho Cattle Association and Idaho Wool Growers Association, to present RS21216, relating to provisions for cruelty to animals. **Mr. Boyd** said the proposal would create a felony for a third offense within a 15 year time period, and the definition is very narrow and clearly defined. He pointed out in Idaho Statute 25-3503 that poisoning of an animal is already a first-offense felony, penalized with a fine and imprisonment and this new proposal does not affect that.

The definition is narrow, affecting only part (a) of section 5 of Idaho Code 25-3502. Parts (b), (c), (d), and (e) are not included. **Mr. Boyd** also noted that in this proposal, each violation is one violation regardless of the counts. For example, if three dogs are in a trailer that overheated, the conviction would only be one count, not three. Dogs in agriculture are exempt as well.

MOTION:

Senator Corder moved, seconded by **Senator Hammond** to print RS21216. Motion carried by **voice vote**.

RS21198

Chairman Siddoway introduced **Dar Olberding** to present RS21198, relating to the Barley Commission, but **Senator Corder** announced that he would handle this proposal. He said that he hopes RS21198 will be printed, but that's as far as it is intended to go and that this is a good process. **Senator Corder** pointed out the Committee last week worked on a bill with changes for the Wheat Commission, and this is an effort to do likewise for the Barley Commission. He stated this is an effort to start the conversation so there can be legislation next year.

MOTION: **Senator Hammond** moved, seconded by **Senator Schmidt**, to print RS21198. Motion carried by **voice vote**.

H412 **Chairman Siddoway** introduced **Roger Batt** to present H412, relating to the Idaho Grape Growers and Wine Producers Commission. **Mr. Batt** began by outlining the impact the Idaho Grape and Wine Industry has on the Idaho economy, noting there are 42 wineries and about 1,600 acres of grapes produced in the state, with a growing interest in Table Grape production, as well.

He said this bill was drafted to allow the Idaho Grape and Wine Commission the statutory authority to fully promote Idaho grape products. He noted that Commission and Industry business owners have expressed that the Industry is currently missing out on numerous opportunities for expansion, growth and new potential markets, and this bill would improve that and further stimulate their business and economy. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #1)

MOTION: **Senator Hammond** moved, seconded by **Vice Chairman Smyser** to send H412 to the floor with a do pass recommendation. Motion carried by voice vote. **Vice Chairman Smyser** will carry the bill on the floor.

RS21149 **Chairman Siddoway** presented RS21149, relating to rules governing the importation of animals, specifically domestic cervidae. **Chairman Siddoway** began the discussion by declaring his conflict of interest, as he has a cervidae ranch and part of his income is derived from that ranch. He acknowledged that there was concern about this issue needing more time for consideration by the Committee and any other interested parties, which is the reason for this hearing. He said there is typically not "testimony" for an RS, but as this is a Concurrent Resolution, this is the only chance to have testimony on this bill in this chamber. **Dr. Bill Barton**, Administrator for Division of Animal Industries, Idaho State Department of Agriculture, State Veterinarian, is here again to answer questions.

Chairman Siddoway outlined the difficulties that hunting ranches and breeding ranches experience when importing cervidae because of the requirement for brucellosis vaccination and flukicide treatment on a tight timeline. Because of the timing of the treatments, there is only one day that one can actually legally import the animals into the state of Idaho, and that has put the Department of Agriculture in a difficult situation. The process is onerous for elk breeders who have to get the flukicide done, wait the appropriate time frame, then do the brucellosis testing, and that leaves one day, prior to the 30 days, to import.

Chairman Siddoway said another of the many problems associated with these requirements is putting the animals in the chute an additional time, because every time they go in the chute, something bad happens, which is just part of the industry.

Chairman Siddoway said the process has put the Department in a pickle because they try to work with the producers to allow a time frame wide enough where they can treat the animals for flukes but still be within their 30 day time period for the brucellosis test. Some importers complained enough that the Department said it would expand the dates by fifteen days instead of thirty days. **Chairman Siddoway** said when they do that, they are allowing something outside of the rule, and it shouldn't be that way, and it creates a problem.

This rule has been on the books for four years and this past year was the first time the parasiticide enforcement has been an issue. **Chairman Siddoway** said he thought a Concurrent Resolution would be the easiest way to fix the problem, and explained that no one was trying to "get away with a quick one," pointing out that the timing of the rulemaking process makes it difficult to make the needed changes in time for the next round of imports.

Chairman Siddoway said the Department suggested, and he agreed, that the easiest solution would be to just do away with this rule, if there isn't an industry concern that cattle or sheep will pick up the liver flukes, or concern of an infestation in wildlife, since there are already parasites in wildlife.

Senator Corder explained the way he has been instructed to correct a rule by way of concurrent resolution is to introduce it as a regular RS and send it to print, so it appears there would be another opportunity for testimony if this issue is handled that way, such that others in the industry who have a similar concern may be heard.

Senator Corder asked if the original rule came about because of industry request. **Chairman Siddoway** answered yes, that is correct. **Senator Corder** asked if it would then be prudent to protect **Chairman Siddoway's** personal interests to have an opportunity for industry, and "not just **Senator Siddoway**" to come back and ask for this rule to be taken away, because **Senator Corder** says he's not convinced, even though he believes **Chairman Siddoway** has a valid request. **Senator Corder** said he'd like to have it be discussed openly and publicly.

Senator Schmidt asked about the rule being put in place at the request of industry four or five years ago, saying that he needs to understand the process and what was responded to at that time. He said he does understand what is being requested now.

Chairman Siddoway invited Dr. Barton to the podium and asked him to make sure what he's saying is correct. **Chairman Siddoway** said five or six years ago, a breeder in Montana imported about 80 to 100 elk that had a real infestation of liver fluke, and those animals started dying. That rancher had hired other guys to take care of the animals, so they were very slow about posting the deaths. They finally got a few over to the Center, and it was an easy diagnosis of liver flukes, because the flukes are big, like a silver dollar.

Chairman Siddoway said the elk producers were already in the process of negotiated rulemaking at the time, as an ongoing process in the industry, so they put the parasiticide rule in to protect the industry and make sure it was getting done, and everyone was fine with that. **Chairman Siddoway** said he didn't know if there was a change in personnel at the Department or if they weren't asking for verification, **Chairman Siddoway** said his first conflict with the rule was last year when he ran out of bulls and had to go to Canada to get more. The rule was being enforced and it stopped his process of getting the bulls.

Dr. Barton and the Department did what they could to facilitate the importation of those animals, bending the rules for several producers, and he doesn't want the Department in that kind of position.

Chairman Siddoway said he thanked them for that, but that he didn't want them doing him a favor because of he sits in the Chairman's seat. He said the time line is bad for producers and working the animals, it doesn't work for the Department, and it doesn't work for importers. The time line also doesn't work for the customers who worry that they could be shooting contaminated meat, because of the 29 to 60 day withdrawal period for the treatment. Those are the reasons for where the issue stands today.

Dr. Barton said **Chairman Siddoway** covered the historical basis for this rule very clearly. The Department has enforced the rule since its inception. There were producers who were meeting the requirement by working their elk twice, and a significant number of them for whom the time lines were short and there was not time to work them twice, and they ran into the situation where there was only one day that it was actually feasible to complete both the brucellosis test and flukicide treatment.

Dr. Barton shared that through the zero-based budgeting process, they identified a need to make some changes to the management of the program and as they were doing negotiated rulemaking a couple of years ago and addressed the cervidae rule, the industry made it clear they wanted the Department to do their job to enforce the rules that are on the books. That did mean some change in management of the program and they ramped up enforcement of all the rules at that point.

Senator Schmidt said it sounds like the Department made a suggestion to the producers that a different time frame, a fifteen day window, might have been helpful. **Dr. Barton** replied that when the Department was presented with the problems this past year for producers to import, he had a discussion with **Senator Siddoway**, and **Dr. Barton** said he himself, as the Administrator, made the decision that they would make an exception to that requirement, but the exception would be made available to all cervidae producers, and at least three cervidae owners took advantage of that exception. At that same time, he let the industry know this was something they needed to bring forward as a potential rule change, so it could be clarified, because last year would be the only year they'd make an exception to that rule. The Department wanted to keep the elk producers' ability to operate going, so they made the decision on the one time basis.

Senator Schmidt asked about the prevalence and significance of liver flukes and if there is concern for spreading it to wild elk. **Chairman Siddoway** indicated **Jim Unsworth**, Deputy Director of Idaho Department of Fish and Game is available if needed, but asked **Dr. Barton** to respond. **Senator Hammond** apologized for interrupting and commented that the discussion seemed to be getting into a lot of detail for a print hearing. **Chairman Siddoway** posed the question if this is a print hearing or if this would go to the floor as a resolution traditionally would do, or if there will be another committee hearing as **Senator Corder** suggested. **Chairman Siddoway** said if what the Committee hears today isn't satisfactory, the Committee can have another meeting about it.

Senator Schmidt repeated his question about the prevalence and significance of liver flukes in domestic elk. **Dr. Barton** replied that the Department does not require Idaho producers to do diagnostic surveillance on the presence of liver flukes in cervidae, so he does not have data as to how much of a problem it is, noting that he can say that most Idaho producers have significant herd health management plans, which do include routine de-worming of the animals with a product that has some efficacy against liver flukes. He doesn't know how many do it because it's not a requirement under the rule. It is a ranch specific practice, but he knows from past experience as a veterinarian who worked with five elk ranches, and all of those used a flukicide routinely and annually.

Chairman Siddoway asked **Mr. Unsworth** to come to the podium to discuss the prevalence of flukicides in wild game herds and if there are concerns about the domestic industry withdrawing this as a mandatory import requirement. **Mr. Unsworth** replied that he cannot describe how common that particular fluke is in wild animals, noting that he knows it does occur. It can be lethal, as was shown with the imported animals four or five years ago. So it is something he would be concerned about and he would not want it to become widespread in wild animals. **Senator Schmidt** asked if there is anyone who could tell the Committee about the threat to wild game herds.

Senator Corder asked **Mr. Unsworth** if the Department of Fish and Game has taken a position on the reduction of this rule. **Mr. Unsworth** replied no. **Senator Corder** asked if that was because the Department is not going to take a position or because there hasn't been the time. **Mr. Unsworth** replied that it's because they haven't had the time.

Chairman Siddoway said the Committee could have another meeting if that is going to help. He said there are people prepared to testify, even though there usually isn't testimony on an RS. **Senator Bock** said he's been referencing the procedural manual and it seems to him the appropriate step would be to send this to print, and that there may be some additional information from Fish and Game Department regarding any threat to native game herds, and he'd like to hear that.

Senator Pearce moved, seconded by **Senator Nuxoll**, to send RS21149 to print, with the intention of having another hearing. Motion carried by **voice vote**. **Senator Bock** asked if a representative from Fish and Game could attend the next hearing. **Mr. Unsworth** replied he would see if the veterinarian would be available. **Senator Pearce** asked **Mr. Unsworth** if wild elk carry fluke in Idaho. **Mr. Unsworth** replied he is not sure, that he wouldn't be surprised if they do, as it has been reported in white tail deer in northern Idaho, but he does not believe there is a big problem.

PRESENTATION **Chairman Siddoway** introduced **Gretchen Hyde**, Idaho Rangeland Resource Commission, for the Commission's Annual Report. **Ms. Hyde** introduced **John Nay**, the Chairman of the Idaho Rangeland Resource Commission. She then shared the strategy and scope of the Commission and the Commission members. She indicated some of their funding comes from grants, fees charged for workshops, and from the Rangeland license plates, which have been a benefit to augment funding for the Commission.

Ms. Hyde said the Commission has been working closely with the University of Idaho Rangeland Resources on relevant and timely science. The Commission has been focusing on outreach through the internet and has developed a more professional, interactive web site for the Commission, as it is an economical way to distribute information. The previous site was updated at no cost, but she said the Commission felt it is such a visible part of its efforts that it should be upgraded. They also continue to do teacher workshops throughout the state so they can teach college level classes in schools. They also work with the "Ag in the Classroom" program, as well.

Senator Schmidt asked if the Commission was seeing a downward trend in their budget. **Ms. Hyde** replied the budget has been steady, but they create a conservative budget, because the industry is facing some issues. **Senator Bock** asked for an update on the cheat grass problem, if there is any research on ways to deal with it. **Ms. Hyde** answered there is some interesting research taking place, especially in northern Nevada, where there was a significant cheat grass die-off, noting that cheat grass does also have some positive attributes in holding soil, so replacing the grass is the biggest concern. She said there are worse weeds, like medusa head that is absolutely not palatable and has no nutritional value.

Senator Corder asked about assessments on the lands and if it is the producers, the people running the animals on land, that are paying the bills. **Ms. Hyde** answered that yes, they are all directly payments from the ranchers or landowners.

Chairman Siddoway asked about the sage grouse workshops for youth, and if the education process was slanted one way or the other. **Ms. Hyde** replied that the Commission provides the materials that are given to the teachers and classroom, and in the video, it can be seen that it's very balanced. She said someone from the Commission or a rancher gives the presentation, and no one points fingers for any problems.

Ms. Hyde played for the Committee one of the videos available on their website, and showed the Rangeland textbook that the Commission developed, and that concluded her presentation. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #2)

Senator Pearce and **Senator Nuxoll** thanked and complimented the Agricultural Affairs Committee Secretary **Christy Stansell** on the innovative bill organization notebook that has taken the place of the less organized committee folders. **Ms. Stansell** expressed appreciation for the compliment.

ADJOURNED: **Chairman Siddoway** called the meeting adjourned at 9:21 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary

AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Tuesday, February 14, 2012

SUBJECT	DESCRIPTION	PRESENTER
	Page Presentation	Chairman Siddoway
S1296	Relating to proceeds from sales of stray livestock	Stan Boyd
S1302	Relating to the minimum standards and definitions of a "dangerous" dog	Senator Corder
S1303	Relating to provisions for cruelty to animals	Stan Boyd
PRESENTATION	Idaho State Department of Agriculture International Trade Offices Annual Report Eddie Yen, Idaho-Asia Trade Office Xu Fang, Idaho-China Trade Office Armando Orellana, Idaho-Mexico Trade Office	Laura Johnson, ISDA

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Smyser

Sen Corder

Sen Pearce

Sen Hammond

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

Christy Stansell

Room: WW50

Phone: (208) 332-1330

email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, February 14, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Nuxoll, Bock, and Schmidt

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER **Chairman Siddoway** called the meeting to order at 8:00 a.m. He asked permission to re-order the agenda to accommodate a guest who needed to catch a flight out of the Boise Airport. There were no objections and the agenda was amended.

PRESENTATION **Chairman Siddoway** invited the Page for Agricultural Affairs, **Tess Warzyn**, to the podium for recognition of her excellent service during her term with the Senate. He highlighted her school activities and accomplishments at Payette High School, including her 4.25 GPA and pending graduation as Valedictorian, and he thanked her for all she's done for the Committee. **Vice Chairman Smyser** contributed that she has known "**Tess**" since she was a rambunctious little girl and she has developed into a fine young woman, and she is proud of her, and thanked her for her service. **Chairman Siddoway** presented her with a gift and letters of recommendation. **Ms. Warzyn** said she didn't want to leave and had learned a lot about agriculture and that the Committee members are intelligent, dedicated good people doing their best, and she thanked the Committee.

S1303 **Chairman Siddoway** invited **Stan Boyd** to the podium to present S1303, relating to cruelty to animals. **Mr. Boyd** directed the Committee to the handout and outlined the bill's provisions that would create a felony for a third conviction in fifteen years of cruelty to animals, as defined in section 25.35.02.5(a). He said Section 5(a) is very broad, as it gives a judge and/or jury the ability to look at each individual case on its own merits.

Mr. Boyd noted that each prior conviction shall constitute one violation of this chapter, regardless of the number of counts. He cited an example of three dogs overheating in a vehicle, that would be only one count, not three. He also noted that standard, normally accepted practices in agriculture are exempt and that branding calves or docking lambs does not constitute animal cruelty. Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #1.)

Chairman Siddoway invited **Rick Stott**, Idaho Cattlemen and Executive Vice President of Agribeeff, to the podium. He spoke in support of S1303. **Mr. Stott** stated that the reputation of his company and industry is important to them, and their focus is providing great products to consumers. One of their primary objectives is the STAR commitment, in which the A stands for Animal Welfare. He said this is not only because it's the right thing to do, but also because consumers are interested in it, and when they passed the resolution last fall, he had phone calls from people around the country congratulating them on being in a state that really cared about animal welfare. He said it's ironic that the proposed statute is receiving a negative perception.

Mr. Stott compared animal cruelty to his morning basketball game, saying that without referees, they are left to call fouls on their own, and everyone knows what a foul is, and same with animal cruelty: everyone knows what animal abuse is, as he experienced when he was asked to rescue horses from despicable treatment.

Mr. Stott said what this proposal does is put a line in the sand to tell citizens and people across the country that Idaho does care about animals and takes the issue seriously. He said some might argue that the statute doesn't go far enough, and some would argue that the statute isn't needed at all because prosecution already occurs. He said this discussion has been going on for years, and drawing a line in the sand and providing a felony provision is critically important.

Senator Corder commented that **Mr. Stott** was instrumental in writing this statute, and asked him what he says to people who ask why sections b, c, d, and e are excluded, especially since agricultural practices are exempt anyway. **Mr. Stott** answered that quite frankly, the purpose of this is to pass it, and have a felony provision on the books, given the amount of controversy in both chambers on this issue. He said it's not about cutting it off, not doing enough, or doing too little, it's about passing a felony provision, plain and simple. It's more important to get wide support than to wordsmith. He said they think it sends a message of what is acceptable and what is not acceptable and it protects the industry and goes after the people who are really not doing the right thing.

Senator Schmidt asked for clarification on the wording in 5(a) of "intentional" and "malicious" and cited the previous example of leaving three dogs in an overheating car, and if that would be interpreted as intentional and malicious. **Mr. Stott** replied that as with the basketball example, "when you get fouled, you know you got fouled," and it's the same thing with animal abuse: "you know when animal abuse occurs." He said it's a judgement and it depends on how long the dogs are in the car - the difference between running in for an ice cream is probably okay, but 110 degrees for eight hours and two dogs die, that's probably malicious.

Mr. Stott said he has spoken with people who are executing this law, and one thing that struck him is they said not to mess around with the words because it is very well entrenched in both the judicial interpretation and the administration of this law to be able to execute, from their perspective, people who are truly abusing animals.

Senator Pearce said he recognizes that the definitions in the code are definite, so what is being talked about here is image. He said he read an article recently in Beef Magazine about the Humane Society of the United State's plan about meat used for food. He asked **Mr. Stott** how the line in the sand applies here. **Mr. Stott** answered that is a relevant question that is being debated across the nation. He said HSUS is a deplorable organization that spends 97 percent of its money on marketing and pension plans and high salaries and has no interest in really helping animals in any government action. He said contrast that to the Humane Society of Idaho who spends 98 percent of their money on actually rescuing and helping animals. HSUS prime priority is putting animal agriculture out of business - they're vegans, and they don't want farmers to have business.

Mr. Stott said this bill is not driven by the HSUS, but rather by people having a negative perception that Idaho doesn't care about animals. He said, "It is image, it is perception, and perception is reality." When industry sells its products to consumers, they care about that.

Senator Pearce stated that didn't really answer his question, noting that in two years, someone will be back before these committees asking for more stringent penalty, and "where do we draw a line in the sand?" He shared the story of some neighbors who had sheep, horses and cattle, and had a breakdown in their family, so some neighbors even helped feed the animals, but someone determined it was animal abuse. So the Humane Society hauled the animals away. **Senator Pearce** said to even have those people even considered for a felony was pretty tough, so again, "Where do we draw the line in the sand?"

Mr. Stott said it doesn't change the same approach for that neighbor. It's three strikes. This legislation is for indication of a repetitive, irresponsible, habitual animal abuser. In looking at statistics, when a person is committing reprehensible acts against animals, more than fifty percent of the time, they're abusing people, too.

Mr. Stott said it's not just the guy who has a family breakdown and can't afford to feed the cattle and the neighbors help out; it's the third strike serious issues of repetitious, out of control abuse. He said, to answer where the line is in the sand: "that's why you guys get paid the big bucks." The cattle industry says this is where the line is, to send a message to the citizens of Idaho and consumers that we care, that no one is in favor of animal abuse, and it takes Idaho off the radar of being one of the states that doesn't care.

Senator Bock said he's one of those who thinks that this doesn't go far enough, even though he will probably vote for it. He said he has concerns about the three strike provision, saying if someone is capable of committing horrific acts, why doesn't it go straight to the felony. And, he said echoing **Senator Corder's** comment about having an exemption for agriculture already so the issue is not about interfering with what is normal animal care in the industry, but why doesn't it go farther for companion animal cases that draw big national attention.

Chairman Siddoway noted that **Mr. Stott** is not the "expert" witness, so if he doesn't feel comfortable answering, then that is okay, but if he does, the Committee appreciates his input.

Mr. Stott said he is by no means the expert, but he can answer about why the bill only goes this far. He said they wanted to be able to pass something. Debate in the past several years was to take it farther, but it went nowhere, so fundamentally, that's why it has gone this far. Secondly, he said, in speaking with people who have to administer, execute and prosecute the statutes, they can go after the practices that are unacceptable, like kitty farms and puppy mills. They believe they have the authority to do what they need to do in the current statute, and he said he's been told specifically, "don't mess with the language."

Chairman Siddoway invited **Wyoma Clouss**, Idaho Dog Coalition, to the podium.

Senator Bock apologized for interrupting, and said he would like to hear from people who oppose the bill so the Committee has a balanced perspective, and asked if it would be possible to alternate pro and con. **Chairman Siddoway** said the sign-in sheet indicates no one has signed up to testify against the bill, and no one else has come in since the meeting began. He noted that many members of the Committee have received several emails from people who were on the "1 of 3" side of things, posing their objection and wanting amendments to the bill. **Senator Bock** said he was surprised that there is no one here to testify in opposition.

Chairman Siddoway invited **Ms. Clouss** to continue. She said she is a member of the Idaho Dog Coalition, which includes kennel dog clubs and hunting dog clubs, with about 400 members across the state. She spoke in favor of S1302, saying that when people set a cat on fire or when a little dog is beaten and thrown in the river, that is not neglect, it's torture. She said the definition of "torture" in Oregon is "an action taken for the primary purpose of inflicting pain." And she urged the Committee's support of S1302. Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #2.)

Chairman Siddoway invited **Jeff Rosenthal**, Veterinarian and Idaho Humane Society, Executive Director, to the podium, who spoke in favor of S1303, to make a third offense of animal cruelty a felony. He said he agrees with some people who have asked if it could be better; however, he says he views this bill as a positive step forward. He says it deals with one of the issues that the Humane Society deals with regularly, which is recidivism, or repeat offenders. This bill has been a long time coming and he thinks it is important that it be added to the statute, as it will show that Idaho does care about animals.

Mr. Rosenthal noted that his agency is also deputized to enforce the statutes and local ordinances regarding animal welfare, including cruelty and neglect, and they do have extensive experience throughout the state dealing with these issues. **Senator Bock** asked if **Mr. Rosenthal** would have any changes to the bill, what would they look like.

Mr. Rosenthal replied he agreed with Idaho citizens that some acts are so egregious and so malicious that on a first offense, he would like to add more powers to deal more appropriately with those offenders. He added that a majority of the cases they see cannot be classified as malicious in intent. They deal with a lot of people who have mental illness or are in circumstances beyond their control, and in some respects, the enforcement is really retribution and doesn't do a lot to solve the real problem. He said education and prevention is the most important tool they have.

Vice Chairman Smyser asked if the Humane Society tries to refer people in such circumstances to other agencies to get help and if that works. **Mr. Rosenthal** answered that yes, they do, but they are often dismayed at the resources available to help people with mental illness, especially those with one of the worst illnesses called animal hoarding. That illness is going to be added to the psychological manual and will be a recognized pathological illness. He said they try to deal with those kinds of cases behind the scenes and not make a media sensation out of the case, but try to do the best thing for the animals.

Vice Chairman Smyser asked if **Mr. Rosenthal** supports **Mr. Stott's** view of the national group as compared to the Idaho group. **Mr. Rosenthal** replied that certainly the groups are very different in their origins. He said the Idaho Humane Society was founded many years before the "quote-unquote United States Humane Society" was founded. He said they have their own agenda, the Idaho Humane Society has its own agenda locally, and in some ways it's quite different. He said they do have some positions that are in common, but the Idaho Humane Society does not find itself in a confrontational relationship with Idaho agriculture.

Chairman Siddoway invited **Wyatt Prescott**, Executive Vice President, Idaho Cattle Association, to the podium. He spoke in favor of S1303, noting that **Mr. Stott** did cover the points around this issue very well. **Senator Nuxoll** asked to confirm that a felony conviction would have to be three offenses against only Section 5(a). **Mr. Prescott** replied, yes, it has to be against that specific portion of the animal cruelty definition.

Senator Pearce asked, and he said he asked **Mr. Stott** the same thing, where the Idaho Cattlemen will stand when new legislation pushes further down the road. **Mr. Prescott** said, "We're drawing the line here today," and he said **Mr. Stott** was right when he said that the legislators are the ones who officially draw the line. He said the possible cost of action is far less than the possible cost of inaction, and they feel as if this is the final line. **Senator Pearce** asked if the Cattlemen's Association will oppose further legislation. **Mr. Prescott** said it is his job to say and do what the membership prefers, and it is his feeling that the members won't go any further.

Chairman Siddoway invited **Bob Naerbout**, Idaho Dairymen's Association, to the podium. He spoke in support of S1303. He stated that he remembers when this issue came up two years ago, and since then, **Stan Boyd** and **Wyatt Prescott** have done their due diligence. **Mr. Naerbout** said this bill before the Committee today has momentum to move, and it's the perception in the beef and dairy industries of the need to go forward with a bill like this.

Chairman Siddoway recognized **Representative Ken Andrus**, Chairman of the House Agricultural Affairs Committee for visiting the Committee today.

Chairman Siddoway invited **Senator Bert Brackett**, Idaho District 23, to the podium. **Senator Brackett** said that Idaho is only one of a few states without a felony provision for the third conviction of animal cruelty, and consequently, Idaho has been targeted. He said as a rancher himself, he cannot defend anyone who abuses animals. The livestock industry has spent a lot of resources and time and thousands of dollars to defend an initiative. If this legislation is passed, the livestock industry will have a much better chance to defeat the initiative. Idaho is a growing agriculture state and cannot defend bad actions and bad behavior.

Senator Brackett then shared and paraphrased some of the emails from people saying the legislation needs to go farther: "Must impose mandatory felony, even for the first offense," and "These offenses constitute a felony with mandatory jail time."

Senator Brackett said he serves on the JFAC Committee, where they have discussed that Idaho prisons are 99 to 100 percent full, and there is an upturn in incarcerations. It's been noted they will need another \$5 million to \$7 million for the next fiscal year if this growth continues. County jails are full and filling up from overflow from the state system. They are soon going to have to look at sending prisoners out of state.

Senator Brackett said the expense of a mandatory first time offense must be weighed against other needs of the state, such as education and health care. Mandatory sentence for first time animal cruelty offenders will put people in a correctional institution that would take away scarce resources from all the other important needs of this state. He said this bill strikes a balance, by providing the livestock industry with protection while at the same time does not go to the extreme position that some want.

Vice Chairman Smyser moved, seconded by **Senator Vick**, to send S1303 to the floor with a do pass recommendation. Motion carried by **voice vote**, with **Senator Pearce** voting nay.

S1296

Chairman Siddoway invited **Stan Boyd**, Idaho Cattle Association and Idaho Wool Growers Association, to the podium to present S1296, relating to funds from the sale of stray livestock. **Mr. Boyd** reviewed the proposal, describing that when stray livestock is found, and there is no brand, and they go unidentified and unclaimed, the sheriff can sell them after ten days at public auction and the money from the sale goes to an Unclaimed Livestock Proceeds Account. If no one claims the funds within 18 months, the money is transferred to the Endowment Fund Investment Board and they put it into the Public Schools Endowment Fund.

Mr. Boyd said the money goes in and never comes out, as only the interest is used. There is approximately \$38 million in that fund. This bill would allow those interest monies to be sent to the State Board of Education's Miscellaneous Fund for public education and higher education programs that advance the livestock industry and agriculture in general. The amount released for programs has averaged about \$33,800 over the past five years.

Chairman Siddoway asked if a sheep herder loses his horse and it is sold, the cattle guys will get to say how to spend the sheep herder's money. **Mr. Boyd** replied that the state brand inspector reported that 98 percent of strays are cattle, mostly beef, some dairy, and only two percent are horses, and he doesn't recall any sheep, goats or hogs that have been sold in twenty years.

Senator Bock moved, seconded by **Senator Pearce**, to send S1296 to the floor with a do pass recommendation. Motion carried by **voice vote**. **Vice Chairman Smyser** will carry it on the floor.

S1302

Chairman Siddoway invited **Senator Corder** to the podium to present S1302, relating to the definition of a "dangerous" dog. **Senator Corder** referred to the handouts in the Committee binders. He pointed out on the three page sheet, the left column identifies current law, and the right side is what is proposed.

The other handout is a flow chart, in which the left column describes animal behaviors, and the right side is actions taken. The ovals in the chart are existing law. The rectangles describe proposed changes.

Senator Corder explained that the proposal does not affect "the people out in the country with their dogs and horses - they're covered," but what does need to be addressed is changes in urban areas, where there are now dog parks and pet stores where pets are the primary customers, and the interactions between animals and people.

Senator Corder pointed out that last year, a bill very much the same as this one, passed this Committee and the Senate significantly, but was held in the House over some issues that have now been resolved. He said the current law is "overly restrictive" and at the same time "overly submissive," meaning there is not enough mechanism in place to help the courts deal with different behaviors of animals.

Senator Corder said the current law is not behavior driven, it is action driven. There are behaviors in animals that are not necessarily indicative that the animal is "vicious." There is no "at risk" or "dangerous" category. So a dog can go from being good old "Shep" to a vicious dog that had to be put down in one step. This proposal seeks to add more steps in the interest of adjudicating an animal appropriately, and assign some blame if it exists for when people aren't taking care of their animals.

There will be an "at risk" category, and change "vicious" to "dangerous" and provide the process of how that occurs, so under certain behaviors, it becomes "if/then" solutions. There is even a "third strike" penalty, so "Shep" doesn't have to get put down right away. There is an intermediate stage, then another stage, and finally be put in jail, and it is up to the court to determine whether that act was so bad that Shep should be put down. It also provides a mechanism so Shep can work his way out and be put on parole, because under some conditions, animals just need to be removed from the situation where they were forced to take action. The new statute provides a mechanism to look at mitigating factors and allow animals a reasonable way out, and allow owners a chance to redeem the animals.

Working dogs and law enforcement dogs are exempted. **Senator Corder** said he spoke with representatives from The Fraternal Order of Police who still have a concern that law enforcement animals haven't been exempted clearly enough. So if this Committee should choose to put this forward, **Senator Corder** would ask it to be sent to the 14th Order so it can be amended to draw a finer exemption for law enforcement dogs, so that under no conditions will a working law enforcement dog be categorized as anything other than law enforcement dogs. **Senator Corder** said he thinks it is okay, but they are nervous about it.

Senator Corder further explained there are no new penalties added. What is added is attorneys fees. Also established is that customary and reasonable kennel costs are appropriate. Another adjustment is the replacement of the word "worry." It was taken out and that caused difficulty in the House in last year's bill. There is no such synonymous term, so "worry" is back in the language. So there is protection that if a dog is in a calving or lambing ground, and that dog is "worrying" animals or causing them anxiety, the owner of the grounds has the right to kill the dog.

Senator Corder said they went back and put in all the assurances for the livestock producers and have suitable and adequate protections for urban people and the situations where animals might interface. He said **Dr. Rosenthal** of the Idaho Humane Society, who testified earlier and is entrusted and contracted with handling these types of situations, will offer more insight here today, as will **Wyoma Clouss**. **Senator Corder** said in the three years they have worked on this legislation, they have tried to hear from everybody. Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachments #3 and #4.)

Senator Pearce asked about the definition of "a bite" that it doesn't break the skin, and how he has seen some horrible dog bites that didn't break the skin, so that makes the dog not dangerous? **Senator Corder** replied that is exactly what this proposal is about. A dog might do that once or twice and eventually become an at risk dog and work up to be a dangerous dog, but it depends on the conditions, because the behavior before the bite would be considered - was he snarling? Under current law, it wouldn't make any difference. If a dog bit someone and didn't break the skin, and there was a charge filed, that dog could be put down. Under the proposal, that may not be the case, because the situation surrounding the bite might be taken into account.

Senator Corder shared an example of three Australian Shepherds in a pickup truck in Mountain Home that would bite people after the owner started the truck, and the bite didn't always break the skin. He said if the dogs did that often enough, and there were enough complaints, the dogs would become "at risk" or "dangerous." It is complaint based.

Senator Nuxoll asked why the law enforcement representatives had concerns and what part they think needs to be amended. **Senator Corder** pointed out where the exemptions start, but because some sections have been repealed and then sections combined, the Fraternal Order of Police said the changes could potentially bring their dogs back under regulation, and they don't want their dogs to be "dangerous" because they are just doing their job. An amendment would insert some language indicating that in the entire chapter, these definitions would not apply to law enforcement dogs when doing their jobs. **Senator Nuxoll** asked if **Senator Corder** thinks the bill is okay, and he said he thinks it is okay, but would still like to amend it.

Senator Corder said one more note about S1302 is that it would also allow for counties or cities to enact more stringent laws, but they cannot be breed specific. He said many local governments have tried to enact legislation banning pit bulls, but there are breeds that are used in Europe for children's dogs, so breed should not be the basis for an ordinance.

Chairman Siddoway invited **Wyoma Clouss**, Idaho Dog Coalition, back to the podium. She spoke in favor of S1302, noting that she appreciated being included in the discussions and development of this proposal. **Ms. Clouss** indicated the members of the Coalition are concerned about the United States Humane Society and take this seriously. She said her organization believes that the responsibility of training falls on the owners, and that animals should be judged by behavior, not on looks. She cited an example where they put up a poster with pictures of forty different dogs and asked 200 people to put a sticker on the picture of a pit bull, and only three people got it right.

Chairman Siddoway invited **Jeff Rosenthal**, Idaho Humane Society, back to the podium. He spoke in favor of S1302. He said the Idaho Humane Society is the state's largest animal control agency, enforcing these laws for 22 percent of Idaho's population. He said while it's true that dogs don't hurt people very often and it's usually not very severe, unfortunately, dogs do inflict severe injury every year, and most of the victims are children. **Mr. Rosenthal** said they've been working on the language of this bill for many years, trying to address the needs of many interest groups and individuals, and not just dog owners but also most importantly, the families that send their kids to school every day and hope their kids come home in one piece.

Mr. Rosenthal testified that officers respond to an average of about 1,000 incidents per year in Ada County of dog bites and dog attacking other animals and people. The actual seizures we conduct every year amounts to about 75 dogs that attacked or bit humans, and 26 dogs that attacked other animals. How often the cases occur boils down to about 25 local nuisance citations issued annually and about six or fewer uses of the current state statute. We deal with these situations through mediation and a lot of times the owners will choose to have their dog destroyed when they feel it's a danger.

Mr. Rosenthal said in 2003, he personally dealt with a case of a dog that killed a child and under current state law, they'd have no ability to destroy that dog even though it was completely unprovoked and killed the child and partly devoured the child. That is the biggest deficiency of current state law. Unfortunately there are some dogs that are so maladapted and so irresponsibly kept in society that the court does need discretion to order an animal destroyed.

Mr. Rosenthal described how this proposal creates a tiered structure, where the courts can deal with less severe cases by certain controls and restrictions, and then on subsequent offenses, the dog may be subject to destruction. This follows a basic model that has been successful in many other states and has reduced the incidents of dog bites. It is also unique in that it draws from local interest groups, the Humane Society, and agriculture groups that have all participated in the process of give and take to come up with this language. He said he understands they are going from just a short paragraph on "vicious dogs" to a greatly extended statute, but based on his extensive experience, these situations are always unique and all need to be examined.

Mr. Rosenthal said a 2006 article written about him was titled, "Nobody loves a biter." He said he wished that was the case, but it's not and the owners of the dogs involved in these incidents often mount a very passionate and emotional defense, and in many circumstances, justifiably so, because there are situations where dogs are going to bite and it's normal behavior, and that needs to be addressed in the code. There are cases of dogs that by their nature may pose a danger to someone who is interfering with their normal activities. So the approach here has been to create as balanced a process as possible.

Mr. Rosenthal said the situation is changing, with 78 million dogs in the U.S. interacting with them more often in more different situations than ever before, from dog parks to dog daycares, to inside schools, etc. This approach mirrors one advocated by the American Veterinary Medical Association. All of the groups that came to the table to work on this legislation had an overriding concern for protecting the public from dogs, and protecting the interest of the injured, and preserving the responsible dog owners' property rights, and recognizing the normal range of dog behavior. **Mr. Rosenthal** said this is the best attempt to come up with a workable solution to the problem.

Chairman Siddoway asked **Mr. Rosenthal** for his opinion on whether or not this bill should go to the amending order for the language for law enforcement animals. **Mr. Rosenthal** replied he has not heard the inquiry from law enforcement, but he has seen dogs doing their job, and he has never had one become an issue and come before him, so he's not aware of any deficiency. He said he feels law enforcement is covered both under the language of the law and common sense and practicality.

Chairman Siddoway asked **Senator Corder** if the bill really needs to go to the 14th Order. **Senator Corder** said he is not afraid of the amending order, but it might slow it down, and he would not expect any devious action to occur. He said he doesn't mind changing it to accommodate the Fraternal Order of Police, but he would yield to the will of the Committee, and have the record reflect that he tried. He said if it becomes an issue in the House, it can be addressed there.

Senator Schmidt stated from his reading of the bill, the law enforcement exemption seems clear, so he moved, seconded by **Senator Pearce**, to send S1302 to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Corder** will carry the bill on the floor.

PRESENTATION **Chairman Siddoway** welcomed **Laura Johnson**, Section Manager, Market Development Division, Idaho State Department of Agriculture, to the podium. She introduced guests from the Department, including Director **Celia Gould**. **Ms. Johnson** said she's excited to share the successes of Idaho agriculture and exports and its effect on the state economy.

She shared that 2011 was a record-setting year, breaking 2008 levels by 22 percent. She said there are many reasons behind that increase, such as economic recovery around the world, increasing global demand, higher prices for some commodities, but it also reflects the efforts of three full-time strategic offices around the world, in Idaho's top ten agricultural markets. These offices should get some credit for these successes as some of the best resources for the state of Idaho. They visit Idaho only a few times a year and they are here today.

Ms. Johnson introduced the International Trade Office representatives: **Eddie Yen**, Idaho-Asia Trade Office; **Xu Fang**, Idaho-China Trade Office; and, **Armando Orellana**, Idaho-Mexico Trade Office. Supporting documents related to the testimony of these gentlemen have been archived and can be accessed in the office of the Committee Secretary. (See Attachments #5, #6, and #7.)

ADJOURNED **Chairman Siddoway** called the meeting adjourned at 10:20 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary

AMENDED #1 AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Thursday, February 16, 2012

Name Correction

SUBJECT	DESCRIPTION	PRESENTER
PRESENTATION	Amalgamated Sugar Company	Vic Jaro, President and CEO
<u>SCR117</u>	Relating to rules governing the importation of animals, specifically cervidae	Chairman Siddoway
PRESENTATION	Idaho Department of Soil and Water Conservation	Bret Rumbeck

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway
Vice Chairman Smyser
Sen Corder
Sen Pearce
Sen Hammond

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Christy Stansell
Room: WW50
Phone: (208) 332-1330
email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, February 16, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Nuxoll, Bock, and Schmidt

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER **Chairman Siddoway** called the meeting to order at 8:03 a.m.

PRESENTATION Chairman Siddoway welcomed **Colby Cameron** with "Sullivan Reberger Eiguren" to the podium, who introduced **Vic Jaro**, CEO and President of Amalgamated Sugar Company, LLC. **Mr. Jaro** shared a report with the Committee, as well as sugar samples for each committee member. Following are some highlights of his presentation.

Amalgamated Sugar has 182,000 base acres of sugarbeets, expecting to plant 195,000 acres in 2012 in their growing areas from Pocatello, Idaho to Prosser, Washington. They plant in March and April and harvest in September through November. The Mini-Cassia plant is the largest beet sugar factory in the nation, and volume-wise the largest in the world, as it slices 3.2 million tons of sugarbeets, which equates to 17,500 tons of beets per day, making three million pounds of sugar per day.

Their two other plants in Twin Falls and Nampa do 7,000 tons and 12,000 tons, respectively. Each truck carries 35 tons of beets, and one of those trucks is dumped every two and a half minutes. The benefits to Idaho from Amalgamated Sugar include employing nearly 2,300 people, with some \$75 million in payroll, and an economic impact over \$1 billion, according to a University study.

U.S. sugar production and consumption is up, while corn syrup is decreasing as it falls out of favor with the population. The company has developed a Five Year Plan to make investments in the factories while the market is good. The plan includes \$118 million in facility improvements over the next five years. They're also working on Business Development and Best Agricultural Practices.

Mr. Jaro identified challenges to the industry to include: Freedom to choose latest crop technology and Round-up Ready sugarbeets, resulting in crop uncertainty; Transportation issues with railroad service changes and truck load weight limits; Farm Bill policy changes; High Priority Environmental issues with EPA air quality regulations and the permits; and, Mexico importing sugar from around the world to export to the U.S. with higher refined prices, noting that if Mexico exports all of its sugar, it will "backfill" its supply by importing it from other countries.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #1)

Vice Chairman Smyser asked what this body of lawmakers could do to help expand the already successful Amalgamated Sugar business.

Mr. Jaro said one of the most important things they face right now is the improvement of the slice capacity at the Mini-Cassia factory. It would benefit not just the company but the state of Idaho. Emissions will be less if they're able to slice it at the factory near where the beets are grown rather than transport them to other locations, which they have to do because of the cap on the slice limit. At this point, they're working through Idaho Department of Environmental Quality (IDEQ).

The other issue the Legislature can pay attention to is increasing weight limits on the U.S. highway system. Even though Idaho highways are designated as capable of handling the 129,000 pound federal load limit trucks, the company cannot invest in that kind of infrastructure until they know they're able to use the equipment on a longer term basis.

Senator Pearce said he'd like to know more about the Slice Cap, and how much it needs to be raised. **Mr. Jaro** said right now it is 3.2 million tons, and they're anticipating 3.5 to 3.6 tons, which would put it in a position for a reasonable operating season for that factory. He said they probably won't go beyond that. The cap has been in place for many years but this is the first year the factories have been able to reach that cap and with efforts to maximize the use of the facilities, in order to be competitive in today's sugar market, they need to slice at those kinds of levels year after year. This is a major problem going forward.

Senator Nuxoll asked for an explanation of the No Cost Policy on the 2008 Farm Bill. **Mr. Jaro** explained the Farm Policy, as it relates to sugar today, does not take any direct cost from the government farm program. Most crops have some form of subsidy. There is no direct paid subsidy to sugar growers. It is done through a system of supply management, recognizing that the world market for sugar is a unique market. Most countries raise the sugar that meets their needs, and what they don't need goes into surplus market. It does not truly represent the cost of production. When looking at the cost of production against typical world sugar prices, they are much below the cost of production. So if the floodgates are opened and that sugar is allowed to come in, it would destroy the domestic sugar program and industry.

Mr. Jaro said that is not in the interest of the company and certainly not in the interest of the consumer. Consumers have been very used to having delivery of a very high quality product. That cannot be had from Mexico or any other foreign source. So, by supply management, pricing can be managed so that it's more in line with the cost of production. Sugar has come in as needed and the program has been managed very well. As world prices have elevated, domestic prices have elevated, so Amalgamated has been competitive in the market. So there is no direct payment from the government. It is from management of supply.

Senator Nuxoll asked if Amalgamated Sugar sets its own prices. **Mr. Jaro** replied no, the prices are set by the market.

Senator Corder asked if there is another commodity that is retail based/market based subsidies rather than direct. **Mr. Jaro** says no, none that he knows of.

Senator Corder said he'd like to give **Mr. Jaro** a chance to brag, and hear why sugar is better off having it set up this way, with having the purchase of a bag of sugar support the subsidy instead of direct source. **Mr. Jaro** said in looking at sugar pricing on a worldwide basis, Amalgamated is extremely competitive on the cost of sugar to either the industrial or retail user.

Amalgamated is the most efficient in terms of beet sugar production in any beet growing area in the world. The cane people are in the middle. In terms of production efficiency, Amalgamated is number eight in the world. The cost of sugar in this country is lower in most cases than in other developed countries.

No other business could stand at low and flat levels for twenty five years and survive like Amalgamated has.

Senator Vick asked **Mr. Jaro** for his perspective on sugar versus high fructose corn syrup. **Mr. Jaro** indicated he would not speak badly about a competitor but that his understanding is that the body metabolizes sugar differently than it does corn syrup and there is ongoing research about that. At this point, it seems consumers have decided they feel there is a difference, even though calorie to calorie, they are similar.

Senator Vick asked about the difference between raw sugar and processed sugar. **Mr. Jaro** explained that raw sugar is sugar that is taken only to a particular point in the refining process such that it retains some of the molasses, and therefore has impurities in it and is not a pure product. Refined sugar goes through a process of crystallization to exclude impurities, and then the surface is washed to remove traces of impurities. It is not bleached, it is a natural process. Raw sugar is not more healthy. It has molasses impurities attached to it.

Senator Schmidt asked for comment on the issues with rail transportation. **Mr. Jaro** said Amalgamated is highly dependent on the rail service because of its plant locations, and the need to move large quantities of product. Only one percent of Amalgamated Sugar stays in Idaho. Sixty percent is export to the west coast, and forty percent goes east. Moving from one coast to the other makes it essential that they have access to rail. The railroad industry is looking at their efficiency processes as well, so this area has seen a reduction in service over the years. **Mr. Jaro** said they have had to go to trucking in California because of the reduction of rail service. It is a problem that needs to be addressed with the railroads, as it affects not just the sugar industry, but the state and other industry and businesses as well.

Chairman Siddoway thanked **Mr. Jaro** for his presentation and for the jobs and economic benefits to the state, expressed appreciation for his efforts and wished him the best.

AGENDA AMENDED

Chairman Siddoway asked the Committee for permission to amend the agenda because **Senator Pearce** needed to leave briefly to speak before JFAC. No objections were made, so the agenda was amended.

PRESENTATION: **Chairman Siddoway** invited **Bret Rumbeck**, Executive Director, Idaho Association of Soil Conservation Districts (IASCD), to the podium to share information about the Soil and Water Conservation efforts. **Mr. Rumbeck** shared a brief overview of the purpose of IASCD and its relationship with the Soil and Water Conservation Commission, led by Director **Teri Murrison**.

Mr. Rumbeck introduced some of the other significant participants in the Association: **Randy Purser**, Moore, Idaho, President; **Kit Tollotson**, Lava Hot Springs, Idaho, Vice President; Ms. **Billie Brown**, St. Maries, Idaho, Secretary; **Steve Becker**, Genesee, Idaho, Treasurer; **Rick Rodgers**, Castleford, Idaho, Director; **Art Beal**, Sweet, Idaho, Interim Director; and, **Nancy Weatherstone**, Boise, Idaho, Executive Assistant. He then played a three minute video for the Committee, demonstrating their increased effort for education and awareness through social media.

Senator Corder thanked **Mr. Rumbeck** and gave him an "atta-boy" for his efforts because he has been hearing good things expressed in the community about the function of the Association as a whole. **Chairman Siddoway** added his compliment to **Mr. Rumbeck** and **Teri Murrison** for doing a good job keeping the Association and the Commission working well together. The video **Mr. Rumbeck** showed can be seen at <http://www.youtube.com/watch?v=6rdXvjMUYYs>

Chairman Siddoway opened the discussion for SCR117, relating to the importation of animals, specifically domestic cervidae. He began by declaring his conflict of interest, as required by rule 39H, as he operates an elk ranch and derives part of his income from that ranch.

Chairman Siddoway shared the background that led to the introduction of this resolution to reject the rule IDAPA 02.04.21, Section 600, Subsection 02 only. This rule relates to the requirement to treat domestic cervidae with a parasiticide prior to being imported into Idaho. This requirement recently has caused a time line difficulty with producers because of another requirement to test for brucellosis, which when done together creates a window of only one day to do both procedures.

Chairman Siddoway described the discussion that was had with the Department of Agriculture on a way to resolve this issue, and it was decided that the simplest way would be to delete that section of the rule.

Senator Schmidt said his concern has been that since industry asked for this rule to require a parasiticide, if now removing the rule is consistent with desires of the industry, the Department of Agriculture, the Department of Fish and Game and all interested parties. **Chairman Siddoway** said there are only two people signed up to testify.

Chairman Siddoway invited **David Miller** from Miller Elk Farm, LLC from Twin Falls, Idaho to the podium. **Mr. Miller** stated this rule was put in place by producers as a protection measure. It's not just the hunting operation that this affects. He said he's looking now at breeding stock from Canada, and it will affect that too. He says every time they have to work the animals, it puts a lot of stress on the animals, so the less they have to work the animals, the better.

Mr. Miller stated it is really an animal husbandry issue. The animals will be quarantined when they are brought in, and they will be vaccinated. This is just something producers do to care for their animals. The other issue he has is with the time line. He said if he purchases a load of cows and he wants to slaughter them, they're in a withdrawal period and he has to wait. That creates an extra week or two that he has to feed and care for these animals and keep them separate so that he can slaughter them and receive his profit.

Senator Corder asked if **Mr. Miller** normally uses a flukicide anyway. **Mr. Miller** replied that yes, he does, and every year he rotates a different parasiticide. That way the worms and liver flukes won't build an immunity to any individual thing he uses on them. With this rule, there's no guarantee that whomever he buys animals from has used a rotation, so yes, they may be treated but it might not do any good.

Senator Corder asked if **Mr. Miller** was in the elk business when the industry brought this rule request in the first place. **Mr. Miller** replied that he was still doing research to see if he was willing to invest his life in the industry. **Chairman Siddoway** thanked **Mr. Miller** for his efforts to come to the Committee today.

Chairman Siddoway invited **Jeff Gould**, Chief of Wildlife, Idaho Department of Fish and Game to the podium. **Mr. Gould** stated the Committee has the Department's testimony in writing and he and Idaho Department of Fish and Game Wildlife Veterinarian, **Dr. Mark Drew**, are available to answer questions. **Dr. Drew** is the Department's expert on disease and parasites.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #2)

Senator Corder said he read the technical report and noted the less than dramatic conclusion that the importation potentially puts native ungulates at risk. **Senator Corder** asked if this really isn't a position statement for or against rejecting the rule.

Dr. Drew replied that the Department does not take a position on influencing the rule. He said they don't have good documentation of fluke in wild elk. They know the parasite has been here and around the world, so the risk of introducing it into the state is of concern. If the time frame of trying to deal with this parasite and prevent its introduction into the state conflicts with other treatment, then perhaps the dates could slide around as opposed to not treating for fluke and risking wild elk.

Senator Corder said if some of these animals are migratory anyway, wild elk might find their way here. He asked if it would be **Dr. Drew's** recommendation that should this rule be rejected, the ISDA would promulgate another rule to offer the protection for wild elk. **Dr. Drew** answered yes.

Senator Vick asked about continuing treatment with rotating flukicides to prevent parasites becoming immune. **Dr. Drew** replied that there are two things: First, there are a number of parasites that have to be dealt with, not just liver flukes, but nematodes and tape worm. The compounds that veterinarians have to treat wild and agricultural animals are different. The drugs that are available to treat flukes will not treat nematodes and vice-versa. The problem faced with resistance is primarily with nematodes, and there are a few compounds that treat flukes but don't treat nematodes.

Senator Schmidt asked if there is a concern about not treating because by removing this rule, there will not be a requirement to treat. He asked if a game management plan would be in effect to help this situation. **Chairman Siddoway** asked **Dr. Bill Barton**, State Veterinarian, Idaho State Department of Wildlife, to approach the podium to answer **Senator Schmidt's** question.

Dr. Barton said the use of any parasiticide in domestic cervidae is not required on an annual basis for herds under the current rule. The only requirement is for those animals who are imported into the state. So the decision to utilize a parasiticide or a vaccine or any management modality is up to the individual producer to determine. His recommendation as an accredited veterinarian is for the producers to determine what is best for their needs.

Senator Corder said it doesn't sound like there is a lot of concern, as there does not appear to be a large contingent of people here to oppose rejecting this rule. He asked if this rule is rejected, is it **Dr. Barton's** intent to go back and promulgate a new rule that addresses the time frames so the safety issue can be addressed. **Dr. Barton** replied that if the committee were to recommend rejecting this portion of this rule, the Department would not take any action unless there was a request for rulemaking to proceed.

Chairman Siddoway invited **Stan Boyd**, Idaho Cattlemen's Association, to approach the podium. **Mr. Boyd** says the livestock industry has not taken a stand on this issue. **Mr. Boyd** said he also represents Velvet Ranch, both a breeding and hunting ranch for domestic cervidae. He said he called the owner, **Mike Ferguson**, and **Mr. Ferguson** said it is just good animal husbandry to take care of their livestock. When a producer has livestock on an irrigated pasture, he just drenches his animals with treatment, because it will cost them money if they don't.

Mr. Boyd described that they visited with **Dr. Barton** and **Brian Oakey**, Deputy Director, ISDA, at the beginning of the session and asked them how to handle this situation. They said that this rule exists because of the industry, and now that the industry sees the conflict, the industry now says go ahead and take the parasiticide rule out, because it's just good animal husbandry anyway. **Mr. Boyd** said if the industry would like, he could sit down with **Dr. Barton** and request rulemaking and find a rule in which the time sequence works.

MOTION:

Vice Chairman Smyser moved, seconded by **Senator Nuxoll**, to send SCR117 to the floor without recommendation. Motion carried by **voice vote**.

ADJOURNED: Chairman Siddoway called the meeting adjourned at 9:16 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary

AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Tuesday, February 21, 2012

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Review of Minutes from February 7, 2012	Senator Hammond Senator Vick
	Review of Minutes from February 9, 2012	Senator Pearce Senator Bock
H389	Relating to Weights and Measures and certain fees	Kevin Merritt, ISDA
PRESENTATIONS		
	Idaho Barley Commission	Kelly Olson
	Treasure Valley Ag Coalition	Jon Watson
	Idaho Farm Bureau	Wally Butler

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Smyser

Sen Corder

Sen Pearce

Sen Hammond

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

Christy Stansell

Room: WW50

Phone: (208) 332-1330

email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, February 21, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Nuxoll, Bock, and Schmidt

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER **Chairman Siddoway** called the meeting to order at 8:04 a.m.

MINUTES The Committee considered the minutes from the Agricultural Affairs Committee meeting on February 7, 2012. **Senator Hammond** moved, seconded by **Senator Vick**, to approve the minutes as written. Motion carried by **voice vote**.

The Committee considered the minutes from the Agricultural Affairs Committee meeting on February 9, 2012. **Senator Pearce** moved, seconded by **Senator Bock**, to approve the minutes as written. Motion carried by **voice vote**.

H389 **Chairman Siddoway** invited **Kevin Merritt**, Bureau of Weights and Measures, Idaho State Department of Agriculture to the podium to present H389, relating to licensing fees for Weights and Measures. **Mr. Merritt** said the intent of the legislation is to allow the fees collected from the weighmaster licenses to be deposited into the dedicated weights and measures fund. He said the ISDA's intent is to bring this program in line with existing licensing programs within the department where it can stand on its own merit, and become a User/Pay program. Supporting documents relating to this testimony have been archived and are accessible through the office of the Committee Secretary. (See Attachment #1.)

Senator Bock asked if the Bureau has spoken with members of JFAC about the precedent this might establish in terms of money going to a dedicated fund instead of the general fund. **Mr. Merritt** replied no, they have not talked to them.

Senator Pearce asked how many people does this impact and by how much. **Mr. Merritt** replied that they licence between 800 and 900 weighmasters at \$10 each. There are people who are required to be licensed to sell certain commodities. **Senator Pearce** asked if that included the people who weigh beets at sugar dumps. **Mr. Merritt** answered yes, those remote locations are licensed as weighmasters.

Senator Nuxoll asked **Mr. Merritt** how the Department knows if this program is "self-sufficient." **Mr. Merritt** answered it is enforced under the general fund of the weights and measures portion of the program. This \$10 fee was established in 1949. **Senator Nuxoll** asked even though it's in the general fund, if they will keep track of expenses and income. **Mr. Merritt** answered that currently the program is funded 70 percent by the general fund and 30 percent from dedicated licenses from inspection fees, like at gas pumps. He said they have not kept track of the actual cost of enforcing this act. All they have is good estimates but not exact figures.

Senator Pearce asked how the system works and what someone has to do to be a weighmaster and how long the license is good for. **Mr. Merritt** answered it is an annual license good from June 1 to May 31. Weighmaster applicants are renewal licenses and applications are mailed out from the Boise office and returned to Boise with a check.

Senator Pearce commented that no one ever sees the weighmasters, so would it make sense to make it a five year license instead of a short term license. **Mr. Merritt** said approval of this legislation would give the Bureau the authority to look at that. He said when the application is sent in, it is signed by the applicant, as well as references who swear to the person's good moral standards. **Mr. Merritt** said there are two requirements for issuing a weighmaster license, that they be 18 years of age and of good moral standard.

MOTION

Senator Hammond moved, seconded by **Senator Bock**, to send H389 to the floor with a do pass recommendation. In discussion, **Senator Vick** commented that he had the same concern **Senator Bock** had about the way this might set a precedence with JFAC. **Senator Bock** asked if **Mr. Merritt** would commit to bringing this up with JFAC. **Senator Hammond** said this is not an appropriations decision, but rather a policy decision, so he doesn't think it needs to go before JFAC. **Senator Vick** said he disagreed with **Senator Hammond**, saying that this would remove funds from the general fund that they could appropriate, noting that he's not voting against it but just expressing his concern. Motion carried by **voice vote**.

PRESENTATION

Chairman Siddoway invited **Kelly Olson**, Administrator, Idaho Barley Commission, to the podium to present the Commission's annual report. **Ms. Olson** introduced one of the board members, **Dwight Little** from Teton, Idaho. **Ms. Olson** reported that in 2011, Idaho became the number one top producer of barley, representing 30 percent of the barley grown in the United States. She said that demonstrates the ongoing competitiveness of Idaho production.

Highlights from **Ms. Olson's** report include: 65 percent of Idaho barley production is in eastern Idaho, 7 percent in northern Idaho, and 27 percent in south central Idaho, and one percent in southwestern Idaho; Anheiser Busch, Modelo, and Miller Coors all use Idaho malt barley; 73 percent of the barley is feed barley while 27 percent is malt barley; Idaho barley acreage is down 37 percent in the past 20 years; Idaho barley production is down 22 percent in the past 20 years.

Ms. Olson said they set budgets based on available resources and many of their investments are long term in nature, including one of their highest priorities being barley research. She said they'll have to provide more dollars to offset declining state and federal dollars, so as the economy improves, she would plead with JFAC and this committee to reinstitute state funding.

Ms. Olson outlined their top priorities of barley research, grower services, and strategic initiatives including malting barley for export, increasing protein and fiber in food barleys, barley as fish feed ingredient, and development of winter barleys. Supporting documents related to **Ms. Olson's** testimony have been archived and are accessible in the office of the Committee Secretary. (See Attachment #2.)

Senator Pearce asked about the use of barley for feed at dairies and his expectation that as dairies increase, so would barley. **Ms. Olson** replied that they would think that, too, because barley is known to improve the milk fat. However, changes in the railroad system have pushed corn into the market and pushed barley out of the dairy rations. She noted there are still local dairies that would prefer to feed barley.

Senator Schmidt asked when exporting malt barley if it is already processed as malt or sent as grain. **Ms. Olson** most cases it is shipped as feed barley, and exported primarily to Japan. She noted that barley is now just a small specialty crop in the United States. Five years ago, the U.S. was the top barley exporter, but now the states barely ship 1000 metric tons of barley.

Chairman Siddoway asked **Ms. Olson** for her feelings about the Barley Commission's outreach program and effort to connect with producers since the last time the Commission requested an increase in the barley assessment. **Ms. Olson** replied that four years ago, they had pushback, with legitimate concerns about poor communication in their counties. Since then, they have held more than 60 outreach meetings on the subject.

PRESENTATION **Chairman Siddoway** invited **Jon Watson**, Treasure Valley Ag Coalition (TVAC) and Chairman of J.C. Watson Company, to the podium to present the Coalition's annual report. **Mr. Watson** introduced **Bob Simerly** of McCain Foods and **Margaret Watson**, former Mayor of Parma, who are also available for questions after the presentation.

Mr. Watson thanked the Committee and the Legislature for all the work they have done for Idaho and Idaho Agriculture. He said they haven't seen an economy quite like this that happened so fast and hit every business and every producer in Idaho.

Mr. Watson said agriculture is so important to the state of Idaho, saying the factory is the ground, the product is the food we eat, the inputs are feed and water and the hard work of employees and farm workers. He said the water Idaho has is precious and they need research to continue making water available to use in Idaho. He said there are challenges in agriculture, but where there are challenges, there is opportunity, and the TVAC is here to ask for the Committee's help.

Mr. Watson said they have Memorandum of Understanding with University of Idaho about the critical function and economic efficiencies to help determine alternate funding for research, and the Governor has charged TVAC with the task of helping with the alignment of funding for University of Idaho. **Mr. Watson** said TVAC would like Idaho to re-fund Five in Five and reinstate the \$500 thousand line item in the budget for research stations in the state. He said industry has put their money in, and he said he believes the State should, too.

Mr. Simerly said there are threats to the potato and onion industry that require research. He described a new disease called zebra chip, which is a bacterial infection vectored by an insect that discolors the flesh of the potato and makes it unsuitable for french fry manufacturing. Iris yellow spot virus in onions is another threat, as is cyst nematode in potatoes. The University of Idaho is the only place to turn to help deal with this. **Mr. Simerly** said there are also problems with infrastructure in research facilities, with literally leaking roofs, that required TVAC to divert funds to repair them. He shared that he thinks research and extension have benefits that are too numerous to list and need to be financially supported. Two issues that need support are addressing food safety and environmental sustainability, two important elements of agricultural development.

Ms. Watson shared about the difficulty with the Parma research facility and how the community and industries pulled together to save it from shutting down. She said TVAC needs the third leg of the stool to be state funding in order to support the other two legs already in place with the University of Idaho and the industry producers.

Vice Chairman Smyser thanked the speakers for their leadership with TVAC and appreciates their efforts to work with the Governor on funding for agriculture research.

Senator Corder and **Mr. Watson** had a discussion about how land grant institutions and publicly funded research impacts Idaho producers as opposed to privately owned and controlled research and a profit motivation as opposed to a public benefit motivation.

Mr. Watson said, "We are here." He said they haven't always come to the Capitol as often as they should, and they realize they need to "come to town" more often. He said TVAC is not just potatoes and onions, they are agriculture. **Ms. Watson** said she hopes everyone realizes how important agriculture is to the entire Idaho budget, and they can't stay important if they're not global, and the way to do that is through research. She asked the State to be an equal partner.

Supporting documents related to the Treasure Valley Ag Coalition's presentation have been archived and are accessible in the office of the Committee Secretary. (See Attachments #4, #5 and #6.)

Chairman Siddoway noted that the Senate reconvenes in twenty minutes and if **Wally Butler** of the Idaho Farm Bureau would like to try to fit in his presentation, the Committee will stay, but if he'd like more time, he can reschedule with the Committee Secretary. **Mr. Butler** stated he would like to reschedule.

INTRODUCTION **Chairman Siddoway** recognized and welcomed the students from Caldwell High School who were in the audience this morning. Several students came and went from the Committee Meeting throughout the morning.

ADJOURNED **Chairman Siddoway** called the meeting adjourned at 9:44 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary

AMENDED #1 AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Thursday, February 23, 2012

SUBJECT	DESCRIPTION	PRESENTER
INTRODUCTION	Leadership Idaho Agriculture Class	Rick Waitley, Executive Director
MINUTES	Review of Minutes from February 16, 2012	Senator Corder Senator Nuxoll
PRESENTATIONS		
	University of Idaho, College of Natural Resources	Dr. Karen Launchbaugh Professor of Range Resources
	University of Idaho, College of Agricultural and Life Sciences	Dr. John Hammel Dean of CALS
	Idaho Beef Council	Tracy Bracco

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Vick
Vice Chairman Smyser	Sen Nuxoll
Sen Corder	Sen Bock
Sen Pearce	Sen Schmidt
Sen Hammond	

COMMITTEE SECRETARY

Christy Stansell
Room: WW50
Phone: (208) 332-1330
email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, February 23, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Hammond, Vick, Nuxoll, Bock, and Schmidt

ABSENT/ EXCUSED: Senator Pearce

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER **Chairman Siddoway** called the meeting to order at 8:02 a.m.

INTRODUCTION **Chairman Siddoway** welcomed **Rick Waitley** and the Leadership Idaho Agriculture class to the Committee. **Mr. Waitley** said he was pleased to have the thirty students of "Class 32" visiting the Legislature, after going all around the state learning about a variety of agriculture issues. **Chairman Siddoway** thanked them for being here and said he looks forward to their leadership in the agriculture arena. The list of participants in Leadership Idaho Agriculture has been archived and is accessible in the office of the Committee Secretary. (See Attachment #1.)

MINUTES The Committee considered the minutes of the Agricultural Affairs Committee meeting of February 16, 2012. **Senator Corder** moved, seconded by **Senator Hammond**, to approve the minutes as written. Motion carried by **voice vote**.

PRESENTATION **Chairman Siddoway** welcomed **Dr. Karen Launchbaugh**, Professor of Range Resources, University of Idaho, to the podium to share a report on the College of Natural Resources and the new University of Idaho Rangeland Center.

Following are a few highlights from **Dr. Launchbaugh's** report. She shared that the University of Idaho is unique in creating the Rangeland Center, as no other college or university in the nation is combining resources and departments like this. Nine programs and departments and 23 faculty members are working together to develop the Center. **Dr. Launchbaugh** said what makes it special is it is "not a building," but rather "a network of people" who have a common interest to advance the understanding of rangelands. There are also opportunities for students to participate, as they created a Rangeland Intern Program, so students may learn as they go and earn money for school, which **Dr. Launchbaugh** called a win-win. The Center's mission is Science and Solutions for the Range. Supporting documents related to **Dr. Launchbaugh's** presentation have been archived and are accessible in the office of the Committee Secretary. (See Attachments #2 and #3.)

Senator Vick said he appreciated **Dr. Launchbaugh's** enthusiasm and asked her how the bill the legislature passed will help since the Center is up and running. **Dr. Launchbaugh** answered the bill gives them a level of stability beyond what the college is doing. It helps them address their top priority issues, which include fire in rangeland ecosystems, grazing in fire, and the role of invasive species, noting the combination of those is huge. They are also looking at development of watershed health and energy resources. They plan a symposium to educate themselves.

Senator Schmidt asked for a better understanding of how everyone communicates and cooperates, given how everyone is so spread out and the diffuse nature of the range in Idaho, especially since there is not a building for the Center.

Dr. Launchbaugh shared that of the 23 people connected to the Center, half are off campus in places like Twin Falls, Boise, Caldwell, and Salmon, and the other half are on campus. She said the Center needs vehicles so collaborators can meet on the range, but they are investing in human relationships and energy. **Chairman Siddoway** said he'd lend his support however he can.

Chairman Siddoway invited **Dr. John Hammel**, Dean of the University of Idaho, College of Agriculture and Life Sciences (CALS), to the podium for a presentation. **Dean Hammel** commented that he is supportive at the Deans level for the Rangeland Center, and bringing everyone under one center will be appropriate for the state and give them strength. He then thanked the Committee for the past support and the FY12 level budget for the agriculture research and extension program.

Following are some highlights of **Dean Hammel's** presentation. He said agriculture's impact on the state is huge with 150 commodities. Farm tax receipts had a record year, with \$7.4 billion. Of that, potatoes are \$912 million and wheat \$766 million and hay moved up considerably, too. He said eleven percent of jobs in Idaho have ties to agriculture, as do eighteen percent of Idaho's economic base sales. Dean Hammel stated agriculture contributes to twelve percent of Idaho's GSP.

Dean Hammel went on to describe some of the contributions of Agriculture Research and Extension Service (ARES) to the state of Idaho. He shared that a 2005 Science article said that by 2050, the global population will be up another nine to ten billion, so food production will need to be twice what it is now. He showed how Idaho potato, wheat and bean crops could fit into that picture and why research on threats to those crops is so important.

Financially, he said ARES is providing a good return on investment in that for every dollar that is appropriated, they generate another \$1.80. Their biggest need right now is the personnel cost, and their need to retain their "crop" of scientists that have been hired and doing tremendous work. He said, "They are our future."

Dean Hammel said another consideration is the infrastructure, given that much of the equipment they use is more than 20 years old, some as old as 50 years. That makes it difficult when the expectation is for cutting edge technology for better research. Also, they are building partnerships and collaboration with other Universities, especially Washington State and Oregon State, since they have similar landscapes. **Dean Hammel** stated that as the economy moves forward, he asks the State to help with funding these needs, and they pledge to use those dollars wisely. Supporting documents from this testimony has been archived and is accessible in the office of the Committee Secretary. (See Attachment #4.)

Senator Nuxoll asked if the 15 percent figure for households in the income and GSP slides takes into account Social Security Unemployment. **Dean Hammel** said it probably does, but he would look into it and get back to her.

Vice Chairman Smyser asked where **Dean Hammel** sees the focus, comparing ten years ago to ten years in the future. He replied that in the past, and currently, considerable amounts of money focused on contaminants. They are facing increasing policy issues on rangeland and agriculture land with chemicals for water quality and the impact it has on species and the environment as a whole.

He said going forward, they are monitoring global changes, and will put dollars toward increasing nutritional value of food, increasing yields, and marketability. With more land going to residential uses, instead of ag, they need to breed new varieties of crops.

Dean Hammel said some of these areas are not funded through federal agencies, and that's why this appropriation is so important, because the environment will always be key, to provide the health of products and commodities. He added other issues will be biofuels, food value, and what is in the food.

Senator Schmidt asked if funds can be shifted to be used for infrastructure. **Dean Hammel** said they lost 80 to 90 full time equivalent positions through attrition and layoffs in the past two years. They made the move that required researchers to put half of their technical support salaries as non appropriated funds, but instead funded through grants. Commodity commissions help where they can, and they do try and get matching grants to help as well. He said it is very important to protect the staff.

Senator Corder commented on the risk of having many researchers having half their salaries paid for by outside sources that the university has no control over, and that the State gets criticism for not funding education well enough. He said it seems there is a risk to the public sector and to the teaching side. **Dean Hammel** replied that some felt they should do it that way, others felt they should not, because there are good faculty that they want to keep. When there are good people, other universities will recruit them away. **Dean Hammel** said he is against the pay to play mentality.

Senator Corder asked about the different ways of obtaining funding, how much less does the college have and how does that shift things for some projects that are maybe now unfunded.

Dean Hammel said the expectation by himself and others certainly is not 100 percent funding from the State. They work with industry to build partnerships. They have a great relationship with USDA ag research service and locations, so there is no risk to those currently. Some facilities around the nation have been closed, and one of the nearby Washington State units is on the list frequently, but hasn't been shut down yet. Other programs, like the tri-state potato program, get a certain amount of funding that gets split among states, and that money is now gone. So since the people are already in place and the potato industry is so important to Idaho, the question becomes how to put those dollars back, generate new resources or have resources reallocated from another program.

Senator Corder commented that the barley growers were in Committee recently and they were saying ARES has funded research, but has not funded any operational dollars, so the Idaho Barley Commission may ask to increase their assessment to cover that, so they might have to ask University of Idaho to replicate that research, and if they don't, there is an implication that maybe there is not enough attention paid to the risk to the industry.

Dean Hammel said one area he has worried about is by the time things shift, there will be somewhere between a five and ten percent reduction in dollars. He said he hopes that does not happen. He said "non-ag" people say "ag" people should be funding their own things, but, he pointed out, looking at the charts in this presentation, commodities make jobs and bring new dollars back to the state. So, the benefit to this state of ag research is a benefit way beyond what the producers put in. Any money put in is a benefit to the whole state.

Chairman Siddoway asked with the Governor's proposal for IGEMS to go out and work with the universities to do some startups, does the University have any ideas or proposals for getting some of that money. **Dean Hammel** replied that it seems to be a little early in the game still, but they would like to enhance the position of the cereal program and another position they could use to support ag production and rangeland. **Chairman Siddoway** thanked him for his time and for the research and extension efforts.

PRESENTATION **Chairman Siddoway** invited **Tracy Bracco**, Idaho Beef Council Executive Director, to the podium for her presentation of their annual report. **Ms. Bracco** shared how the Idaho Beef Council is the marketing arm for the beef producers of Idaho and offered some insight on how they are increasing the opportunity for producer profitability, including with social media, a new television commercial, and cowboy cookouts, as well as youth programs to educate the future beef consumers. Supporting documents related to **Ms. Bracco's** presentation have been archived and are accessible in the office of the Committee Secretary. (See Attachments #5 and #6.)

Vice Chairman Smyser told **Ms. Bracco** that she was impressed with what amazing things they do with such a little amount of money.

Senator Schmidt asked when Idaho exports beef, is it processed here first or exported live. **Ms. Bracco** replied it is processed first, but with the closure of Nampa's beef processing plant, it has to be transported to other pacific northwest or Utah packing plants. **Chairman Siddoway** thanked her for being here and for her efforts on the Beef Council.

ADJOURNED **Chairman Siddoway** called the meeting adjourned at 9:31 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary

**AMENDED #1 AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Tuesday, February 28, 2012**

Adding Agenda Item

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Review of Minutes from February 14, 2012	Senator Schmidt Vice Chairman Smyser
	Review of Minutes February 16, 2012	Senator Corder Senator Nuxoll
S1346	Relating to Proceeds from Sale of Stray Livestock	Stan Boyd
S1304	Relating to the Barley Commission	Dar Olberding
PRESENTATION	Idaho Farm Bureau	Wally Butler

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway
Vice Chairman Smyser
Sen Corder
Sen Pearce
Sen Hammond

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Christy Stansell
Room: WW50
Phone: (208) 332-1330
email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, February 28, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Nuxoll, Bock, and Schmidt

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER **Chairman Siddoway** called the meeting to order at 8:03 a.m.

MINUTES The Committee reviewed the minutes from February 14, 2012. **Senator Schmidt** moved, seconded by **Vice Chairman Smyser**, to approve the minutes as written. Motion carried by **voice vote**.

The Committee reviewed the minutes from February 16, 2012. **Senator Corder** moved, seconded by **Senator Nuxoll**, to approve the minutes as written. Motion carried by **voice vote**.

S1346 **Chairman Siddoway** invited **Stan Boyd** to the podium to present S1346, relating to the proceeds from the sale of stray livestock. **Mr. Boyd** shared that S1346 is essentially the same as S1296 that was previously before this Committee, with one change. The word "direct" has been changed to "recommend." That means that the Idaho Cattle Foundation can "recommend" that the proceeds from the sale of stray livestock can be appropriated for programs that advance the livestock industry or agriculture in general, but still gives the final say to the Idaho State Board of Education. This change was made to alleviate concerns from JFAC about the placement of funds.

MOTION **Vice Chairman Smyser** moved, seconded by **Senator Nuxoll** to send S1346 to the floor with a do pass recommendation. The motion carried by **voice vote**. **Vice Chairman Smyser** will carry the bill on the floor.

S1304 **Chairman Siddoway** invited **Dar Olberding**, representing Idaho Grain Producers, to the podium to present S1304. **Senator Corder** asked to make a statement before the presentation, which **Chairman Siddoway** allowed. **Senator Corder** said that when the RS for this bill was originally presented before this Committee, it was his understanding from the originator that if it went to print, it would go no further, with the originator's only intent being to open the discussion among barley stakeholders. **Senator Corder** said the barley stakeholders have since done significant work and have changed their minds and would now like to proceed with the bill.

Chairman Siddoway said that was also his original understanding, noting the action put the Committee in a difficult situation, and he asked that next time the originator be better prepared. He then asked **Mr. Olberding** to proceed.

Mr. Olberding apologized for the miscommunication. He then yielded to **Tim Dillin**, Idaho Barley Commission (IBC) Chairman, and barley producer from Bonners Ferry, Idaho.

Mr. Dillin said the IBC is in favor of S1304 that would amend the Idaho statute to give the board authority to set the IBC assessment at a rate not to exceed four cents per hundredweight, which is less than two cents per bushel. The assessment is currently fixed in statute at two cents per hundredweight which is less than one cent per bushel.

Mr. Dillin said one reason for the request is the fluctuation in barley production in Idaho, which is down 22 percent in the past twenty years. He noted though that in 2011, Idaho became the largest barley producer, providing 30 percent of the nation's total barley production.

Mr. Dillon said that to address long-term funding challenges, the IBC held more than sixty grass-root grower town hall meetings from 2008 to the present, as well as had the Department of Agriculture conduct an official referendum with barley growers on the idea of raising the assessment.

Mr. Dillin said the most urgent need for more funding is to maintain and build up the federally funded barley breeding program at the National Small Grains Germplasm Research Facility, which is co-located at the University of Idaho's Aberdeen Research and Extension Center. He said the research and extension programs at University of Idaho College of Agriculture and Life Sciences has taken a \$5.7 million reduction in the past three years, impacting agronomic research.

Mr. Dillin said reduction of funding negatively impacts testing and evaluation of new barley varieties.

Mr. Dillin highlighted three ongoing investments the IBC is making to help strengthen their competitive advantages: Barley Research, and the creation of a national food barley research consortium; Barley Market Development, and strategic initiatives to diversify Idaho's barley markets; and Grower Services, including a national effort to improve barley crop insurance.

More details and supporting documents in relation to **Mr. Dillin's** testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #1.)

Senator Nuxoll asked **Mr. Dillin** to repeat the information about and results of the recent IBC referendum. **Mr. Dillin** replied that in 2009, IBC asked the Idaho State Department of Agriculture to do a survey. They sent out 1800 ballots, and 491 ballots were returned and judged to be valid. That was a response rate of 27 percent. Out of that, 54 percent were in favor of raising the assessment rate. Since that time, the IBC has conducted a lot of outreach in the areas where there was some reluctance the last time this idea came forward.

Senator Schmidt said it seems the research being done is starting to give some returns and IBC wants that to continue. He asked if that concept is widely held and supported by barley growers. **Mr. Dillin** said he thinks it is. He said with IBC support, they released the first beer malt barley varieties and those varieties show an average of 30 percent increase over the regular varieties of malt barley. That was a public release with private monies. Many varieties come through the university system and without that research and test blocks and the university extension, they wouldn't know what those barleys were.

Chairman Siddoway invited **Ron Elkin**, farmer in Twin Falls, Idaho and member of the Idaho Barley Commission, to the podium. He spoke in favor of S1304 and said most of what he could share would duplicate what **Mr. Dillin** shared, so he would stand for questions.

Senator Nuxoll asked why the Commission plans to go up two cents rather than just one cent, so people really know where they are for the increase. **Mr. Elkin** said barley is marketed by hundredweight instead of by bushel. That number is specifically targeted as a two cent increase per hundredweight, which is one cent.

Chairman Siddoway clarified that as it was presented, this increases the check off from two cents to four cents per hundredweight. In previous testimony, there were some committals that there would only be a one cent per hundredweight increase the first year. They just want that authority. He said he thinks **Senator Nuxoll's** question is if they only want one cent, why not only ask for one cent. **Mr. Elkin** replied that yes, the IBC is looking for a little bit of flexibility. He said they don't foresee the need for that full increase. They have just been operating under two cents for so long, and with reduction in acres and increased demand for research dollars, they'd like flexibility, given the marketplace right now.

Senator Nuxoll said the Senate passed a bill increasing the Wheat Commission assessment, and much of their funding will go to research, and she asked if the Barley Commission can use the money from the Wheat Commission assessment. **Mr. Elkin** said researchers do separate research for wheat and he can't speak to what wheat growers are doing with their money, but the IBC is certainly promoting their own barley research.

Senator Schmidt said 54 percent of the people who replied to the survey who thought an increase in the check off would be okay, but that was three years ago. He asked if there was much push back at the outreach meetings, and if this is passed, will there be a lot of unhappy barley growers. **Mr. Elkin** answered that he served as IBC chairman during much of that time, and he said the push back was justified. He said roughly 65 percent of the state's barley is produced in that part of Idaho, and the Commission had not communicated well with them. He said barley has never been a cash crop, so the meetings were shy on attendance because people didn't understand what the Commission was doing. **Mr. Elkin** said that's why they spent the past three to four years doing outreach, noting they took that vote very seriously and realized they hadn't spent enough time in that region.

Chairman Siddoway invited **Dennis Tanikuni**, Assistant Director of Governmental Affairs for the Idaho Farm Bureau Federation, to the podium. **Mr. Tanikuni** spoke in favor of S1304. He said the Bureau supported this idea in 2008 and after discussion with **Mr. Olberding** and some IBC members, the Bureau supports it again today. **Mr. Tanikuni** pointed out the IBC has been engaging in deficit spending over the past few years. He spoke about the provisions of the bill, including the assessment increase, noting that an assessment is not a "tax" but a "fee for service." He spoke of the new language clarifying the commissioners serve at the pleasure of the Governor and can be removed by the Governor. **Mr. Tanikuni** said the provision complies with the Farm Bureau policy for referendum.

Mr. Tanikuni said the Bureau thinks it is important for the assessment authority to be increased to four cents in order to maintain Idaho's competitive position in the industry. He noted that before working in the Farm Bureau, he spent nine years as a commission employee for two commissions, and he said he always found the commissions to be responsible and responsive to their industries. Supporting documents relating to this testimony has been archived and can be accessed in the office of the Committee Secretary. (See Attachment #2.)

Vice Chairman Smyser commented that part of the reason it didn't pass in 2008 was the economy and the Commission continues to operate in a deficit. **Mr. Tanikuni** said his understanding from the Barley Commission annual report was that they've been spending \$40 to \$50 thousand out of reserves annually. He said he thinks the bill failed in 2008, as **Mr. Elkin** said, because the outreach had been inadequate.

Senator Vick asked if there was a provision elsewhere in the code for referendum. **Mr. Tanikuni** said yes. **Senator Vick** asked if it concerned **Mr. Tanikuni** that only 14 percent of those surveyed approve of raising the fee. He said he realized that most of that low number is because of the low number of ballots returned. **Mr. Tanikuni** replied that his understanding of normal polling is that three to five or six percent is generally a reasonable return. He said what they need to consider is the surveys that were returned and go with those numbers. **Senator Vick** said that even among those, it is barely over half, and that concerns him. **Mr. Tanikuni** said he appreciates what **Senator Vick** is saying but he thinks adequate outreach has been conducted and he does agree that those numbers could be more current.

Senator Hammond commented that those who take the opportunity to vote get to make the decision, and if they don't vote, they don't get to be part of the decision. He said he sees the IBC made an effort for outreach both before and after the survey and while the Committee is here as a safeguard, he has concerns about second-guessing the Commission's effort to protect their industry and support those who voted.

Chairman Siddoway invited **Clark Kauffman**, Idaho Grain Producers Past President and farmer in Filer, Idaho. **Mr. Kauffman** said he served on the Idaho Barley Commission for six years from 2000 to 2006. He spoke in favor of S1304. He said the Barley Commission also works on market development, with exports opening up in the southern hemisphere for malt barley and food barley. He said he supports the IBC to fund those. **Mr. Kauffman** said the commission was spending reserves even when he was a commissioner, and he offered assurance that when the Commission looked at programs to fund, they were very conservative, making sure the bang for the buck went back to the grower.

He said he is a recipient of that because he has some ARS barley plots on his farm and he gets to see the new varieties as they're developed. He described the Field Day they have that includes the Magic Valley group of farmers, so they can ask questions of the breeders. The event is backed by the IBC.

Chairman Siddoway said everyone on the Committee understands the benefits of research as far as feed barley industry is concerned, and asked for more information on the research for the malt barley industry and how that is funded. **Mr. Kauffman** said Coors and Busch have their own breeding programs. Aberdeen is the only one in the western United States and their emphasis for the past ten years has been on malt barley. The IBC has funded a lot of that barley breeder research in Aberdeen. Researchers at the Extension put those varieties on plots around the state to see how they do with yield and agronomics of those varieties.

Chairman Siddoway said he thinks that demonstrates the opportunity the Barley Commission has to participate in research and the funding of research through the University. He asked if there is any participation in research with Busch or Modelo or such facilities, or is IBC locked out. **Mr. Kauffman** said the barley breeder has Busch and Coors varieties in the trials, and they work in cooperation with the extension trials. They are all working together. It is a good team work effort. **Mr. Kauffman** said he grows for both Busch and Coors and at times some feed barley, too.

Senator Nuxoll said it really bothers her that only 54 percent of the returns were in favor of the increase. She understands they have to look toward the future, but they can only spend what they have to spend and it's hard to go with a two cent increase when it "might" be needed or it's too hard to come back and ask for more. She said she grows barley, too, and she has a hard time supporting something when the returns are so little, so she will probably be voting no.

Senator Bock asked if **Senator Nuxoll** was declaring a conflict of interest due to her barley production. **Senator Nuxoll** said they don't grow much but, yes, she declares a conflict of interest according to rule 39H.

Senator Vick asked **Senator Corder** for some background on the controversy surrounding the previous attempt to raise the assessment. **Senator Corder** said several years ago was the first attempt of the Barley Commission to increase their fees. At that time, they hadn't done the background work or committed to a referendum or done a lot of field work. There was legislation before this committee to increase the fee, and several barley growers came to protest. Today there are no protestors. Because of the protest several years ago, the Committee rejected the request to raise the fees. As a result of that rejection, the Barley Commission has spent three years in significant outreach efforts to understand what growers want and to educate the growers on the need. He said the success of that effort is demonstrated by the lack of protest today.

Senator Corder said he understands the reluctance on the amount of surveys returned, but he said if there had been protest, the return of surveys would have been higher. He said his perspective of the history is that perhaps a year ago, at the end of the three year research outreach goals, would have been an appropriate time to bring this legislation, but their view was politically, it was not the best time to come before the Legislature. That brings the issue current. He said he thought they were still in that mode and only wanted to print legislation so they could once again elevate their approach and desire to get more input from other barley growers. He said it's clear that printing the bill and having this hearing has still not prompted any opposition. **Senator Corder** said he has not received any emails in opposition either.

Chairman Siddoway said he was nervous last week about going forward with this bill until he went home and met with some barley producers he knows. He said when this came up in 2008, the center of the opposition was his home county of Jefferson county and Madison County. He said at that time, 70 percent of the barley in the state was grown in that region, and those producers raised up against the bill and came over in protest. **Chairman Siddoway** said he spoke with six producers and the results were about the same as the survey. Two of them said no, no, no. Three said great, we have to do it, let's go ahead. The other just shook his head. **Chairman Siddoway** said these conversations led him to believe that yes, there is opposition, but yes, there is support for this bill.

MOTION

Senator Corder moved, seconded by **Senator Hammond**, to send S1304 to the floor with a do pass recommendation. Motion carried by **voice vote**, with **Senator Vick** and **Senator Nuxoll** voting nay. **Senator Corder** will carry the bill on the floor.

PRESENTATION

Chairman Siddoway invited **Wally Butler**, Idaho Farm Bureau Federation, to the podium to share a report on Monitoring Rangeland. He shared how during the legislative off season, he travels the state to work with rangeland operators. He said many ranchers do not monitor, even though it is so important to do, so he encourages them to be involved in monitoring to collect data that will benefit their operations.

Senator Corder asked how many operators are meeting the monitoring recommendations now as compared to a decade ago. **Mr. Butler** replied there is much less fear and skepticism now than there was several years ago, mainly because it is litigation driven. Ranchers now see the value in monitoring and collecting information prior to permit renewals or appeals that might come up.

Mr. Butler said he covers about 500 sites around the state prior to grazing and right after livestock come off the land, from Bear Lake to Bonners Ferry. He said these are done on an as-requested basis from ranchers. It used to be they were all based on "here's an appeal to my permit and I'm behind the eight ball!" Now, they are doing it as a preventative measure, like insurance for them. **Mr. Butler** said his work is designed to augment the BLM or Forest Service efforts, not to discredit what they are doing. It's supplemental and the agencies are receptive.

Mr. Butler said he encourages ranchers to look at their permit files periodically so they know what is in them. Complaints go in the file, and if the rancher doesn't monitor the file, it could be full of complaints without any demonstration that a problem has been addressed or repaired, even if it was fixed. If there is ever an appeal or some kind of protest on the permit, ranchers don't want a pile of negatives. The file should show the rancher is responsive.

Mr. Butler showed a series of photos that compare before and after views of many different sites around the state. He photographs "key areas" which are representative of the rest of the allotment, and "critical areas" that may have special needs. The differences show things like: improving shade over water that improves water temperature for fish; when grazing was stopped, thistle took over and the grazing was actually beneficial to the field; growth of trees and willows, or loss of trees and willows to an avalanche; and, other changes to landscape, whether beneficial or detrimental.

Mr. Butler noted that when he gets pictures with a complaint, he will go out and put it in perspective, to show not just the problem area, but the surrounding area as well, which may indicate the problem is not as bad as the complaint made it seem.

Supporting documents related to **Mr. Butler's** testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #3.)

Senator Corder thanked **Mr. Butler** and complimented him on his great service because no one else gets to see what was, what is, and what works.

Chairman Siddoway also thanked **Mr. Butler**, noting that the point is well taken to keep permit files updated and accurate.

ADJOURNED

Chairman Siddoway called the meeting adjourned at 9:17 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary

AMENDED #1 AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Tuesday, March 06, 2012

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Review of Minutes of February 21, 2012	Senator Pearce Senator Schmidt
	Review of Minutes of February 23, 2012	Senator Bock Senator Vick
	Review of Minutes from February 28, 2012	Senator Corder Senator Nuxoll
HCR37	Relating to a pending rule of the Board of Veterinary Medicine	Karen Ewing, Executive Director, IBVM
H512	Relating to the Idaho Sheep Commission and changes to the name and assessment level	Stan Boyd
H513	Relating to the Idaho Honey Advertising Commission and production of honey in Idaho	Benjamin Kelly
PRESENTATION	Idaho Aquaculture Association	Linda Lemmon

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Vick
Vice Chairman Smyser	Sen Nuxoll
Sen Corder	Sen Bock
Sen Pearce	Sen Schmidt
Sen Hammond	

COMMITTEE SECRETARY

Christy Stansell
Room: WW50
Phone: (208) 332-1330
email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, March 06, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Nuxoll, and Schmidt

ABSENT/ EXCUSED: Senator Bock

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER **Chairman Siddoway** called the meeting to order at 8:01 a.m.

MINUTES The Committee considered the minutes from the Agricultural Affairs Committee meeting of February 21, 2010. **Senator Pearce** moved, seconded by **Senator Schmidt**, to approve the minutes as written. Motion carried by **voice vote**.

The Committee considered the minutes from the Agricultural Affairs Committee meeting of February 23, 2010. **Senator Vick** moved, seconded by **Senator Hammond**, to approve the minutes as written. Motion carried by **voice vote**.

The Committee considered the minutes from the Agricultural Affairs Committee meeting of February 28, 2010. **Senator Corder** moved, seconded by **Senator Nuxoll**, to approve the minutes as written. Motion carried by **voice vote**.

HCR37 **Chairman Siddoway** invited **Karen Ewing**, Executive Director, Idaho Board of Veterinary Medicine (IBVM), to the podium to present HCR37. **Ms. Ewing** said this concurrent resolution relates to part of the rules that were considered by this Committee earlier this session. The original idea was to remove refunds of the original certification fee for Certified Veterinary Technician (CVT) applicants who withdraw their application, with the intent being it would allow IBVM to recover its expenses in processing the application up to that point. However, there was an unintended consequence in the language of the rule change that became an issue in the House, so the House voted to reject this part of the rule.

Ms. Ewing said the IBVM agrees that the wording needs to be fixed because it created a fairness issue, saying they didn't realize the rule didn't strike the section that would allow giving refunds if an application is denied. She said what IBVM would like to do is make the rule that all application fees are non refundable. So today, HCR37 would reject that section of the rule and they will come back next year with a new rule to fix the wording.

MOTION **Senator Corder** moved, seconded by **Senator Nuxoll**, to send HCR37 to the floor with a do pass recommendation. Motion carried by **voice vote**. In discussion after the vote, **Ms. Ewing** asked for input from the Committee on whether the Committee would be willing to hear this issue again next year or if they would prefer IBVM to just drop this issue. **Chairman Siddoway** replied that he would prefer to see the rule with the correct wording to reflect the needs of IBVM.

H512 **Chairman Siddoway** invited **Stan Boyd**, Idaho Sheep Commission and Idaho Wool Growers Association, to the podium to present H512, relating to changes to the Idaho Sheep Commission.

Mr. Boyd said this bill does three things. First, it changes the name of the Idaho Sheep Commission to the "Idaho Sheep and Goat Health Board." He stated the Idaho Sheep Commission was created in 1929 as a regulatory animal health program for the sheep and goat industries, one that receives general fund monies.

However, since 1929, many other commissions have been created, with their primary function being for promotion and advertising. **Mr. Boyd** said he has been asked for several years to change the name, but it has taken a while for the sheep industry to get used to the idea. At their last convention, the stakeholders agreed it was okay to change the name, so this legislation will change every reference of Idaho Sheep Commission to Idaho Sheep and Goat Health Board.

Secondly, this bill will give the new Board authority to collect an assessment of up to twelve cents per head. Currently, he said, the Commission is allowed to accept six cents, three cents of which goes to the animal damage control program. The bill asks for a ceiling of twelve cents, but plans to leave the assessment at six cents for now. **Mr. Boyd** noted the wolves are doing more harm to the industry right now than any health problem.

Mr. Boyd outlined the third aspect of the bill that eliminates many of the audit requirements. He said in Idaho Code, the Sheep Commission collects the money for the promotion program. When it was written, a lot of audit requirements were automatically put in that pertain to Commission personnel. Commission personnel are part of the Department of Agriculture as non-classified exempt employees. There is no checkbook handled by the employees. The Department of Agriculture collects and pays the bills, so the feeling is there is no need for an independent auditor to come in and audit the state of Idaho.

Mr. Boyd then pointed out the bill was given two amendments in the House. The first is to include an allowance for an assessment on goats, since those animals would come under the authority of the Idaho Sheep and Goat Health Board. For years, goats have been under the Sheep Commission without an assessment, so sheep basically took care of the goats.

He said if there is a goat assessment, it would be on a per head basis, at a rate comparable to the rate assessed for wool. For example, in a mature ewe worth \$200, they are assessing six cents per pound of wool. The average weight is ten pounds in Idaho, so they are assessing sixty cents per head. In this example, that would probably mean an assessment for goats would be thirty cents per head. He said they have yet to determine how that would be collected. One idea that has been suggested is to collect it at auction, but he said he thought auctioneers might not be fond of that idea, so that will be up to the new Board to figure out.

Mr. Boyd said the second amendment in the House came at the request of the Lieutenant Governor to add wording to state the Commissioners, soon to be members of the Health Board, would serve at the pleasure of the Governor, such that he approves them and also has authority to remove them.

Senator Schmidt asked about the line in the bill that states members shall be experienced wool growers and if that is the case, can a goat herder be on the Board. **Mr. Boyd** replied he thought they could be on the Board, but the language does not reflect that, so if they were to initiate an assessment on goats, they would add wording to reflect that a goat herder would be allowed on the Board.

Senator Schmidt pointed to the language of how the Board is populated, and if the current Commission members will stay there and be appointed per this statute or if the Board will need to be repopulated. **Mr. Boyd** said everything is staying the same with the members, just the name is changing.

Senator Pearce asked how much general fund money goes into the Sheep Commission and how many sheep and goats are in the State. **Mr. Boyd** answered around \$54,000 and there is a current sheep population of about 180,000 head of breeding stock, and he does not know an exact count of goats.

Senator Pearce asked if combining sheep and goat into one board is like mixing oil and water, or if the two are compatible. **Mr. Boyd** answered he thinks they are compatible. He said back in 1929, they didn't know what to do with the goats, so they put them with the Sheep Commission. They do authorize goat permits, and pack goats are popular for Hells Canyon. They do have a health certificate requirement and dairy goats are required to have a negative brucellosis test.

Senator Pearce asked if general funds are being put in to the Board, what is the split of the cost between goats and sheep. **Mr. Boyd** said off the top of his head, he would say ten percent to goats and ninety percent to sheep. He added there are dairy goat operations in Idaho, but they are handled by **Marv Patten** and the Department of Agriculture.

Senator Nuxoll asked how goats can be given an assessment if there is no one on the Board who is a goat grower. **Mr. Boyd** said that's a good question, but that while this would provide the authority to make an assessment, there is currently no plan to do so. He said they would need to figure that out. **Mr. Boyd** said he agrees with **Senator Schmidt** that when the time comes, if the time comes, and there is an assessment needed, the Board would come here and ask for it to be permitted.

Senator Nuxoll asked if there was any resistance to the assessment. **Mr. Boyd** replied the assessment has been there since 1929, collected by the wool buyers who work the state of Idaho. They collect it when they buy the wool and submit it on a quarterly basis. The industry decides how much and what it is used for, noting the sheep industry has always been proud of conducting its own program.

Senator Nuxoll asked if there was a survey done about the assessment and she'd also like to hear **Chairman Siddoway's** opinion on this legislation. **Mr. Boyd** said the issues were discussed long and hard at their most recent convention, and the Wool Growers Association passed a resolution calling for the name change and also requesting the assessment ceiling be raised, since it has been maxed out at six cents for about eight or ten years.

Senator Nuxoll asked about the percentage of the vote. **Mr. Boyd** said about 100 of the 600 wool growers in the state of Idaho were at the convention, noting that about 50 wool growers own about 60 to 70 percent of all the sheep in the state. The other 500 owners have maybe 20 head here, 20 head there. **Mr. Boyd** said if a person's livelihood is on one item, in this case sheep, they show up at the meeting and so they were in attendance at the convention.

Senator Nuxoll asked **Chairman Siddoway** if he was at the conference and how he feels about the legislation. **Chairman Siddoway** said he was able to make the end of the conference, and he is in full support of this.

Senator Vick asked when was the last referendum done and what questions were asked at that time. **Mr. Boyd** said it was held in 2000, and he cited the legislation that outlines the question being submitted by secret ballot asking, "Do you favor a promotion, research and education program for the sheep industry that is funded by all producers with no refund provision?" There are directions to place on the ballot a yes or no with an x-mark. That referendum passed, and he said he thinks it was with around 80 percent voting yes.

Senator Pearce asked what kind of Commission and assessments they have on goats in states like Texas and New Mexico. **Mr. Boyd** said in the primary goat raised in Texas is angora, and their hair is very valuable and sold and assessed by the pound. In Idaho, most goats are for meat, not for angora, because angora goats need a very dry climate.

MOTION

Senator Hammond moved, seconded by **Vice Chairman Smyser**, to send H512 to the floor with a do pass recommendation. Motion carried by **voice vote**.

H513

Chairman Siddoway invited **Benjamin Kelly**, representing the Idaho Honey Industry Association, to the podium to present H513, relating to the Idaho Honey Advertising Commission, which represents commercial beekeepers in Idaho. He said Idaho ranked eleventh in production in the United States and as of December 1st, there are 94 registered beekeepers in Idaho with 87,109 colonies.

Mr. Kelly shared with the Committee an example of a product that people believe is honey, but it is actually only seven percent honey. He said the packet used for demonstration is correctly and legally labeled, but is indicative of what is being considered.

He said the purpose of H513 is for the promulgation of rules to prohibit the adulteration of honey produced by Idaho beekeepers. The bill provides for rulemaking, sampling and analysis, and includes parameters for penalties for violations and "stopsale, use, or removal" orders. There is no fiscal impact to the General Fund. All expenses will derive from the Idaho Honey Advertising fund.

Mr. Kelly said the reason this came about is that large shipments of adulterated or contaminated Chinese honey are frequently transported in from other countries, in order to avoid U.S. import fees, protective tariffs or taxes imposed on foreign products that intentionally undercut domestic prices. He shared that in a series of shipments two years ago, tons of honey produced in China passed through the ports of Tacoma and Long Beach after being fraudulently marked as a tariff-free product of Russia. Thousands of pounds of honey entering the U.S. each year come from countries that raise few bees or have no record of honey for export.

Mr. Kelly shared the story of how just last October in Jacksonville, three people were accused of misclassifying Chinese honey as a rice fructose in order to avoid more than one million dollars in duties. He said those individuals represented a number of honey importation companies. The investigation found that once the containers of honey passed through customs, they were forwarded to a warehouse, washed of all markings and relabeled as amber honey, which was then sold to domestic purchasers, bypassing a \$2.63 per kilo anti-dumping duty.

He stated U.S. Customs and Border Protection are in the process of seizing or detaining 123 containers of falsely manifested rice fructose located at eleven ports of entry in the U.S. The loss of duty owed to the U.S. government on those containers alone is about \$1.15 million. To combat misclassified honey, Florida in 2007 began the process of placing measures into state code to help fight against illegal honey sales. Since then, 29 states have passed laws or are in the process of creating rules to address the issue.

Mr. Kelly then went through the legislation section by section to outline the changes. Supporting documents related to his testimony have been archived and are accessible in the office of the Committee Secretary. (See Attachment #1.)

Senator Corder commented that a simple little thing about honey is more complex than people thought. He asked what part of statute did Section 6 come from. **Mr. Kelly** replied that came from Idaho Commercial Feed Law Title 25.

Senator Corder asked if there are any other substantive changes in Sections 5, 6, 7 or 8 from where they already exist. **Mr. Kelly** said no, they followed the guidance of **Representative Darryl Bolz**, and ISDA's **Lloyd Knight** and **Mike Cooper**, and through the process tried to make as few changes to current code as possible, just referencing honey instead of feed.

Senator Corder asked about the wording on page 7 where it says, "The commission shall make available to any pest applicator registered with the department, abatement or pest control district..." a list of beekeepers registered with the commission. He asked if that is being done now, and if all of the people listed in the section are furnished with a list of beekeepers. **Mr. Kelly** said he'd have to defer to **Lloyd Knight** on that. **Senator Corder** expressed that if the wording "shall" is included and holds others responsible, that it should be made certain the bee industry is complying with their end on that.

Senator Corder referenced the sample packet of honey sauce and asked if it would be considered an adulterated item that this legislation could stop from being sold, even though it says honey sauce and not honey. **Mr. Kelly** said through the rulemaking process, he didn't think that would be addressed. He said it is properly labeled, and as far as they know, it is high fructose corn syrup. He said if something is not labeled correctly, and they're manufactured or bottled in the state, that is what they would point to in the rules.

Senator Corder said he wants to understand this legislation wouldn't in any way have the Department promulgate rules on how rice or corn is used, and that all the rules will suggest is parameters of how honey is used, so if a packet came with all those other things, and no honey, no action could be taken unless they represented that there was honey and there was no honey.

Mr. Kelly said before the Department would address something that could be "funny honey" with a stop sale or at least testing, they would have received a letter in writing about it. As long as the additive is properly marked and labeled, as this sample packet is, and as far as they know everything is legitimate, then the Department will not address those. They would use a stop sale order only if it is mislabeled or fake.

Senator Corder said all the rules that will be promulgated will be to protect the integrity of Idaho honey and they don't care about rice. **Mr. Kelly** said that is correct, and an issue would more likely be if somebody who has adulterated their honey tries to pass it off as a local or pure honey.

Senator Schmidt asked about who will be doing the sampling and analysis of honey. **Mr. Kelly** said he wasn't sure who would be doing the analysis and that would be up to the Department of Agriculture, but it would only occur after a complaint is levied.

Senator Nuxoll said she uses honey for canning and buys it directly from a bee producer, but she is aware of going to stores and not knowing for sure if it is really honey, so she said she thinks there is definitely a need for some rules on the honey issue.

Senator Vick said it appears there is no raise in assessment in this bill, and asked who will pay for inspections. **Mr. Kelly** said the money will come from the Honey Advertising Fund, which currently has about \$23,000. He said the amount available varies depending on how many assessments are collected.

Senator Vick asked for more information on filing complaints, inspections, and licenses and what is expected in the bee industry when a complaint is filed. **Mr. Kelly** described that if a beekeeper has a certain amount of colonies, they must register, and there are 94 beekeepers registered right now. He said of those, 15 or 20 are not considered "commercial." As far as licensing, he said he'd have to defer to **Lloyd Knight** at ISDA.

Senator Vick went on to explain his concern that if someone files a complaint against a honey processor, they can face a misdemeanor with jail and a \$3,000 fine if they refuse access to their property. **Senator Vick** asked what constitutes the standard of complaint to warrant this penalty. **Mr. Kelly** said the section was taken from the Idaho Plant Pest Act and this only sets parameters that will be specified in detail during rulemaking, to set up a matrix of what compliance would be. He said they'll set up stages, for example, with a first offense as a warning, second offense is this violation, third and so on.

Senator Vick said he wants to know what would be the standard for a complaint so that someone doesn't file a complaint just because they're irritated with their neighbor, saying he doesn't want a beekeeper to be harassed and have to go to jail because he didn't let someone on their property because he doesn't think he's being treated fairly. **Mr. Kelly** said those standards have not been addressed yet, but it would be at least written complaint based, and this would be looked at in rulemaking.

Senator Corder said Section 7, subparagraph 3, refers to the Commission being able to report minor violations, and that might be a substantive change from the original statute. While **Mr. Kelly** reviewed information on that question, **Chairman Siddoway** invited **Lloyd Knight**, Administrator of Division of Plant Industries, Idaho State Department of Agriculture, to the podium to answer further questions.

Mr. Knight said the legislation as drafted would have the Commission doing the rulemaking. That is a little bit different than the way some of the Department programs work, where the Department owns the rulemaking and the fees. It is a hybrid relationship because of the marketing aspect of this where the Commission owns the rules, the funds, and the fees that are assessed. What the Department brings is the inspectors and the enforcement because the Commission doesn't have full time staff qualified to do that.

The Commission would set those standards, as has been done with similar efforts around the country, for honey, not for the bees, but rather how the honey is packaged and what it says on the ingredient statement, so that consumers know they're buying honey when they think they're buying honey. The Commission would put in rules what they want the standards for honey to be, as well as any fees or assessments they think they need to fund the effort.

Moving forward, the Commission and the Department would work together on enforcement, which would be complaint based. For example, someone goes to the market and buys a significant amount of honey to work on canning, and they think something doesn't look right. They would contact the Commission or the Department and say they think they have a product that does not look right, and the Department would respond.

Mr. Knight said most of the complaints would happen in a retail setting with closed packages like the sample displayed for the Committee. When sampling is done in programs like feed, fertilizer and seed, the Department actually purchases containers of the product with dedicated funds, so they could do that with honey.

The rule would define what the standards are, and it would be something they could deal with in a sampling and analysis way, and send the product to labs for testing to verify if it had something other than honey in it, and then follow that up with enforcement.

He said this will deal with honey more on a retail end, not on the production end, and the retailers are comfortable with the Department being there for other programs. This would not be a new group of inspectors. It would be the existing inspectors who already handle other programs. Honey would be a complaint based program, so the inspectors would not actively be looking for problems.

Mr. Knight said the Honey Advertising Fund, which the Commission owns, has about \$23,000 in it. It is understood that if they get into a lot of activity with the program and that fund runs out, the Department will not be able to do the activity.

Senator Pearce asked if there are any major manufacturers who use honey in their production here in Idaho that is being checked for adulterated product coming in from other places. **Mr. Knight** described how a stopsale works. It starts in a retail setting at the point of distribution, and statute allows for a statewide stopsale, too. At that point, they go to the manufacturer if possible.

If it's out of state, they send a certified letter. Because they're not regulating the production of honey, only regulating the label, the Department's duty would stop at getting it off the shelves if it is labeled incorrectly. If production is in the State, and there's something happening in the state, it makes it easier to deliver the stopsale, but as he reads the legislation and proceeds with the rules, the Department's work will be focused primarily on the point of sale, not production. They are looking at the labels and what is on the shelf more than what they are doing at production.

Senator Pearce said if there really is a problem of adulterated honey coming in, someone is purchasing it. And he asked if someone in this state is using big barrels of honey for candy bars or honey oats or something, are there manufacturers that utilize large volumes of honey who would use the adulterated honey because it's cheaper.

Mr. Knight said he doesn't know if there are manufacturers in Idaho using large quantities. For the Department's purpose, and how the bill is written, and how he'd see the rules come out, the Department's involvement would be on how they labeled it, and if someone thought there was an issue. He said they don't check for that now. If this passes and goes forward, they will have to talk about how to think ahead on how to approach manufactured products.

Senator Corder referred back to Section 7 and the cumulative effect with certain violations adding up to a maximum of \$13,000 and asked if **Mr. Knight** has experienced that. **Mr. Knight** said in his time at the Department, he doesn't think he has ever had an access issue, nor has the Department had to deal with that. In most cases, the enforcement issue is usually dealing with a product itself. If it's an access issue, with a large retailer for instance, they usually go to the manager, and if they don't get anywhere with them, they go to the corporate office to try and gain access without having to go to this statute. In other plant pest act enforcement issues, they have had to deal with administrative warrants, search warrants in essence, but have not had to deal with penalties.

Chairman Siddoway said, for clarification, in section five on page three of the bill, there is an indication of how the money was collected, with five cents per hive, ten dollars for registration, and how the Commission will do the advertising and promotion.

Chairman Siddoway invited **Tom Hamilton**, honey producer from Nampa, to the podium. He asked him if he could shed some light on how people who use large quantities of honey might be tempted to use adulterated honey from outside sources. **Mr. Hamilton** said he and two sons are in the honey business, and they also produce honey in Montana. He said he has been on this issue for many years trying to get something done. He said he is not envisioning people coming out to his facility and sampling from it. He said he sells a million to a million and a half pounds of honey each year, and every pound is sampled for purity. He said they deliver honey to a legitimate packer of honey, and his reputation is based on what he can sell at market.

Mr. Hamilton said where he's in conflict is the competitors of his legitimate packer that will undercut him in price because they can get cheaper honey that is adulterated. There are large bakeries in Idaho that use honey as an ingredient, and on the national level, there are big food processors who put an ounce of honey in a box of corn flakes. If they use adulterated honey, that is what **Mr. Hamilton** said he's trying to stop. He said when they compete on the shelf, like with honey at the dollar store that says it's honey but the shopper pays half the price, the shopper should figure that out. **Mr. Hamilton** said they need to stop people from calling something "real honey" that is not "real honey" to keep it on a competitive level.

Senator Schmidt asked if honey labeled as honey is labeled by the Food and Drug Administration. **Mr. Hamilton** said he does not have a problem with that because it is properly labeled, and they can't do anything about that. He said he'd like to tell them to sell real honey, but they are doing it legally. Retail stores are demanding U.S. produced honey only, and they are getting a premium for it. **Mr. Hamilton** said he has a reputation with his standards, so he's asking the legislature to help beekeepers implement their standards.

MOTION

Senator Pearce moved, seconded by **Senator Nuxoll**, to send H513 to the floor with a do pass recommendation. Motion carried by **voice vote**. **Senator Corder** will carry the bill on the floor.

PRESENTATION

Chairman Siddoway invited **Linda Lemmon**, representing the Idaho Aquaculture Commission and Secretary-Treasurer of the Idaho Aquaculture Association, to the podium for her presentation of their annual report and budget statement. **Ms. Lemmon** shared a few statistics including: 46 percent of all fishery products consumed worldwide are farm raised, not wild caught; 89 percent of the world's farmed fish are produced in Asia; and, only one percent of the world's fishery products are produced here in the United States. She said that indicates there is a serious trade deficit in aquaculture, with 88 percent of fishery products in the U.S. being imported.

Ms. Lemmon said at the same time, Aquaculture is the fastest growing animal agricultural industry in the world, noting that the 2010 dietary recommendations suggest increasing the amount and variety of fish in people's diets. Idaho contributes to that variety, raising rainbow trout, sturgeon, tilapia, catfish and cavear. Idaho was the number one trout producing state in the nation, contributing 72 percent of all trout consumed in the U.S. The price of trout increased last year, but that did not keep pace with increase in the cost of feed. Fish farmers are still having a difficult time.

Ms. Lemmon said the Commission was founded in 2005 to promote the marketing aspect of aquaculture in Idaho. The Association handles most of the research end. **Ms. Lemmon** described the new website to promote Idaho aquaculture that should be finalized and up and running in the spring of 2012.

Ms. Lemmon shared how the Commission is funded by a checkoff, but it is voluntary. She said the Commission struggles that it is not mandatory. Since producers are selling most of their product to processors, the processors handle most of the marketing for their specific needs, so producers don't see the need to be part of the Commission. If they are both a producer and a processor, they also don't participate because they don't want to be involved in generic advertising. She said that puts a lot of pressure on the people who are part of the Commission.

Ms. Lemmon shared the income and expense and budget sheets, noting that they are spending more than they're bringing in, and she said they see that continuing as they try to garner more local producers to become members of the Commission. She said she hopes that will improve as the economy picks up enough to take the burden off the few members who are carrying the Commission.

Ms. Lemmon said they also are doing activities such as fairs, tasting events and recipe development. In 2012, they are involved in a feasibility study on a new culinary center with funding that came through from a USDA grant. It looks at the opportunity to bring tourists to agriculture operations along the Highway 30 byway that would allow visitors to have cooking demonstrations and retreats and experience education. She mentioned the Ag Summit and how the grilled lemon sturgeon was so well received.

Chairman Siddoway asked in the water mitigation plans, there are a couple aquaculture businesses that have mitigated water and so made deals with the state, and how does she see that affecting the industry, if there will be fewer fish available for sale for example.

Ms. Lemmon said she was really not sure how that would play out as she hasn't personally been involved. She said it is her understanding that the facilities will not be retired, and should still be operated, just by different people. If a water source is not protected or enhanced, and it declines or is stopped, aquaculture will not increase as an industry. As water goes down, the industry will go down. The number of fish that were reported for sale went down, while the size of the fish went up, so the value of the aquaculture increased because the price paid was greater. They are all hopeful that the facilities will continue to run at maximum.

Ms. Lemmon said they have a concern about trucking, and if fish are taken out of production, that means fewer trucks coming to the Valley. She said they hope all they see is a shift in operations and not taken out of production.

Chairman Siddoway called the meeting adjourned at 9:27 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary

AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Tuesday, March 13, 2012

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Review of Minutes from March 6, 2012	Senator Hammond Vice Chairman Smyser
PRESENTATION	Idaho Dairy Products Commission Idaho Dairyman's Association	Deana Sessions Bob Naerebout

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Vick
Vice Chairman Smyser	Sen Nuxoll
Sen Corder	Sen Bock
Sen Pearce	Sen Schmidt
Sen Hammond	

COMMITTEE SECRETARY

Christy Stansell
Room: WW50
Phone: (208) 332-1330
email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, March 13, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Bock, and Schmidt

ABSENT/ EXCUSED: Nuxoll

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER **Chairman Siddoway** called the meeting to order at 8:00 a.m.

MINUTES The Committee reviewed the minutes from the Agricultural Affairs Committee meeting on March 6, 2012. **Senator Hammond** moved, seconded by **Vice Chairman Smyser**, to approve the minutes as written. Motion carried by **voice vote**.

PRESENTATION **Chairman Siddoway** invited **Deana Sessions**, Idaho Dairy Products Commission, to the podium to share the Commission's annual report.

Ms. Sessions said she's pleased to report that they had a very clean audit with no findings. She then shared the 2011 Financial Highlights, including that assessment revenue increased approximately \$478,000, and expenses increased \$3,497,000, resulting in a decrease in operating income of approximately \$478,000.

She noted the Commission increased commitment to nutrition and product and ingredient manufacturing through the Unified Marketing Plan and increased marketing activities to facilitate increased demand for dairy products. The reason for that is with the economy the way it is, consumers have a very limited budget, and when they have an incidental or emergency expense, they take it out of food dollars. She said they are trading good nutrition for fuel for their vehicles. That means the sale of milk and cheese has been in the red for over a year now. **Ms. Sessions** said that is not good for the fight against obesity, nor is it good for the return on investment for Idaho dairy farmers.

Ms. Sessions said there has been discussion among legislators that the Idaho Dairy Products Commission has a lot of money in reserves, but she said it has long been her practice to encourage the Board to not spend money for the sake of spending money, because there will be a rainy day or a project that needs those funds. She said right now they are using part of the reserve for a long term investment, and if they didn't, they would be in a \$3.4 million deficit.

Ms. Sessions went on to describe some economic factors that affect the dairy industry. Commission activities and expenses are all based on milk production. She said every dairy farmer in the United States has a mandatory checkoff of 15 cents per hundredweight. Ten cents goes to the state program and five cents goes to the National Dairy Board federal program. The Idaho Dairy Products Commission also assess one cent for the Idaho Dairyman's Association.

They are projecting 2012 to be flat, with no increase in production, maintaining what was a 3.75 percent increase in 2011 over 2010. That means they're expecting an assessment income of \$13.2 million.

Milk prices went down in 2009. Prices increased in 2011, but are still below levels that allow for a favorable return for producers and their input costs. Milk prices are predicted to remain flat in 2012. Idaho dairy industry continues to be dependent on the favorable export market.

Ms. Sessions said the Commission continues to focus on nutrition programs, noting that milk is highest quality product that carries nine powerful nutrients, and no other single food item on the market has that level of nutrients. Consumers need three servings of dairy per day, and they have only reached 1.78 servings, so there is plenty of room for growth.

Ms. Sessions outlined 2012 budget highlights that include increasing the commitment to the national Unified Marketing Plan, and nutrition, product and ingredient research. **Ms. Sessions** said as Idaho is a cheese manufacturing state, the Board decided to make a \$2 million investment in research to transition McDonald's from processed cheese to natural cheese. The McDonald's project will require testing and research to the tune of \$6 million over three years.

She also described the Board's commitment of \$300,000 to pay the difference in cost between cardboard and resealable plastic bottles for milk in school lunches, she said to provide students a better "milk experience" and create life long milk drinkers for their own health. Focus groups show the students believe the bottled milk to have better flavor and stay colder, and since the schools cannot afford the difference in cost, the Board will pay for it. In 2012, the Idaho Dairy Products Commission will invest \$2.2 million in schools.

Ms. Sessions shared how the Commission is implementing the "Fuel Up to Play" program, in cooperation with the National Dairy Council, in an effort to combat childhood obesity by getting kids off the couch to get sixty minutes of exercise per day and eat more nutritious foods. Out of 750 schools in Idaho, 557 are participating. There are about 273 students who are helping to move the program forward. The dairy industry nationwide is spending \$34 million on this program, of which half a million is coming to Idaho. **Ms. Sessions** quoted a statistic that shows this is the first generation that is not expected to out live their parents, so the Commission will maintain its focus on nutrition to help combat that.

Ms. Sessions directed the Committee to the packet that includes two DVDs, one of which is "Milk Victory" with Boise State University's Head Coach Chris Peterson. The Commission worked to replace the sports beverages and supplements in the training rooms, such that now only milk or water is available, because she said science has shown that milk is good for refueling muscles. **Ms. Sessions** said the Commission is working with two other universities to do the same thing. The Commission provides educational materials to schools at every grade level for teachers to use in the classroom because the Board decided years ago to support improving health in the community.

Supporting documents related to **Ms. Sessions'** testimony have been archived and are accessible in the office of the Committee Secretary. (See Attachments #1, #2 and #3.)

Senator Hammond asked to have a better understanding of the bottom line and the deficit. **Ms. Sessions** answered the Commission has \$6 million in long term investments that are totally liquid if needed. She said they don't want to use it if they don't have to, based on what happens with production.

PRESENTATION **Chairman Siddoway** invited **Bob Naerebout**, Idaho Dairyman's Association (IDA), to the podium to share the Association's annual report. **Mr. Naerebout** recognized and commended **Ms. Sessions** for her 33 years of service to the dairy industry. He also said he will miss **Senator Hammond** when he moves on to his new position.

Mr. Naerebout shared some information about the status of dairy farms in Idaho. He said according to the most current figures from a national survey, there are 569 ISDA licensed dairy farms with about 551,000 head of cattle from the Treasure Valley to the Magic Valley to Eastern Idaho. That figure does not include raw milk dairies, of which there are about 80 small operations. There are 13 fewer dairies but 12,000 more head of cattle than last year. Idaho is the second largest milk producing state in the twelve western U.S. states, and third in the whole nation, with production levels holding steady at 13.2 billion pounds of milk (which amounts to 1.537 billion gallons.)

Senator Pearce asked about the reasons for the loss of 13 dairies. **Mr. Naerebout** said it is from natural attrition, noting the industry is under a lot of stress right now with the economic reality of the nation. He said if one looks at the history going back thirty years, in the U.S. in 1980, there were 225,000 commercial dairy farmers. Today there are only 52,000.

Mr. Naerebout continued with his presentation and said about 33,000 jobs are created in Idaho by the dairy industry. Of those, 8,300 are on dairies. He shared a story of one dairy that had an audit of its employees and found that 32 of the 40 were not legally qualified to work. So the dairy operator advertised in the paper, and no "second generation" individuals applied. He described that on farms, the people who take the jobs are "first generation" workers. The operator replaced the labor with more Hispanics with correct data, and people from local refugee centers.

Mr. Naerebout said this demonstrates a need for a good immigration policy, because dairies need to have the ability to bring employees in, and he said right now, there is not a good policy.

Senator Pearce asked what the current average pay is for cow milkers or dairy workers. **Mr. Naerebout** said it is right around \$12.00 to \$14.00 to start. The highest paid Hispanic worker is making \$55,000 per year. **Senator Pearce** asked if there is something in conditions that the Committee isn't aware of as to why people don't want to milk cows. **Mr. Naerebout** said he milked cows when he was young. He then said it's just not something people aspire to do. He said they aspire to be the owner, like **Mr. Naerebout** did. He said that's why it is a "first generation" entry level job.

Mr. Naerebout said 2009 was a bad year and most dairies burned through their equity that year. He described 2010 and 2011 as treading water. Current cost of production is \$17.50 to \$18.25 per cwt. That is largely driven by feed costs. This year there was a big competitor for hay as Texas suffered drought.

He described the average futures market is predicting a yield of \$16.35, which causes concern of where the industry will land in 2012. He said they can add value on the pounds of milk for protein and butterfat of about \$1.50 to \$1.25 and puts the yield at about \$17.85, which is above the low mark, but below the high mark, so it will be interesting to see what happens. He said if commodity cheese can't pay the bills, they will have to find other product mixes to make it work.

He said there is still 800,000 pounds of milk being shipped outside of Idaho, which adds an extra burden with the cost of transportation. So they need more plant passages to process milk.

Mr. Naerebout said the Idaho Dairy Association is also looking at government involvement in the industry, because policy does affect price on the net side of the equation. One factor is the ethanol policy. He said the Crop Reserve Program (CRP) that takes ground out of production, lowers the feed available and then raises costs. They are also trying to stay ahead of the environmental curve and EPA regulations.

Vice Chairman Smyser asked how much of Idaho producers' feed is coming from out of state and what trends has he seen for going out of state to get it, and what is the Association doing with the Commerce Department to bring and grow new business in Idaho. **Mr. Naerebout** answered most of the feed grains (soy bean, cotton seed, corn) and roughages (corn stalks and hay) are coming from out of state. Because Idaho is farther away from the corn belt, producers pay a higher transportation cost. Ten years ago, about five percent of corn was used for ethanol, and today 39 percent is used for ethanol, and livestock pays the price.

He said they are working closely with Economic Development groups so that other organizations will look at Idaho for business, and in fact, one is coming to the banquet this evening. The Idaho Legislators are invited to see how important dairy is to the economy. He said the IDA has offered to help the Commerce Department with development and cost of high gloss, high quality brochures.

Vice Chairman Smyser asked if the dairy industry was involved in the Governor's recent trade mission. **Mr. Naerebout** said yes, from a processor's side, but not the producer's side. The Dairy Commission has offered to pay the way for processors who want to go on trade missions, and the IDA will support them. The checkoff funds the U.S. Dairy Export Council.

Mr. Naerebout shared about the need and their efforts to protect the dairy industry through research, legal, immigration and education programs, noting that immigration is an especially important issue for them, so they fund local and national organizations that they hope will have an impact.

Senator Corder asked for information on the difference of economics between Holstein versus Jersey cattle, noting his understanding that one might be better with a smaller cow that wasn't eating quite as much feed to produce the same butter fat. **Mr. Naerebout** said that is absolutely correct, and that many dairies are trying to turn over to Jersey cows because they have a better yield on butter fat and protein and the Jersey is a smaller and more efficient animal. But Jerseys are a high demand animal and not the same value as a Holstein. More dairymen would like more Jerseys if the banks would let them.

Senator Pearce asked what are the two or three main factors that are keeping other manufacturers or processors from coming to Idaho so that local producers aren't shipping as much out of state. **Mr. Naerebout** said the number one reason is the location of Idaho to the population base. For example, Jerome cheese goes to the East Coast, so someone who is looking at Idaho versus Wisconsin (the second largest producing state) might say that's closer than Idaho so their price will be less. Secondly, Idaho has lost good processors because Idaho could not compete with the "give-ups" of other state and local governments. He cited Chobani Yogurt in Twin Falls as an example of a great team effort from a lot of players putting together a good package to get them here. **Mr. Naerebout** said that's the financial game that is being played, and it doesn't make it right, but it's competition.

Senator Pearce said it seems when all the water is taken out when making cheese or yogurt that it should be able to be shipped less expensively. He said it seems like it should be more competitive. **Mr. Naerebout** said it's called a nickel balance sheet. The cost is a nickel a pound higher than Wisconsin's cost to get to New York. So a nickel compounded becomes a lot of money, so they have to lower the cost of product here by more to make up for that.

Mr. Naerebout said the other issue that hasn't been talked about is the proposed livestock research at the University of Idaho. There is really good research being done in South Dakota and Wisconsin, and IDA would like to replicate that here in Idaho.

Supporting documents related to **Mr. Naerebout**' testimony have been archived and are accessible in the office of the Committee Secretary. (See Attachment #4.)

Chairman Siddoway thanked the guests for their presentations and their efforts.

ADJOURNED **Chairman Siddoway** called the meeting adjourned at 8:47 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary

AGENDA
SENATE AGRICULTURAL AFFAIRS COMMITTEE
8:00 A.M.
Room WW53
Thursday, March 22, 2012

SUBJECT	DESCRIPTION	PRESENTER
	Page Presentation	Vice Chairman Smyser
MINUTES	Review of Minutes from March 13, 2012	Senator Bock Senator Pearce
H611	Relating to Livestock Liens and the sale of certain livestock at public auction	Heather Cunningham

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway
Vice Chairman Smyser
Sen Corder
Sen Pearce
Sen Hammond

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Christy Stansell
Room: WW50
Phone: (208) 332-1330
email: cstansell@senate.idaho.gov

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, March 22, 2012

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Vice Chairman Smyser, Senators Corder, Pearce, Vick, Bock, and Schmidt

ABSENT/ EXCUSED: Chairman Siddoway, and Senators Hammond and Nuxoll

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER In **Chairman Siddoway's** excused absence, **Vice Chairman Smyser** took the Chairman's seat and called the meeting to order at 8:05 a.m.

Vice Chairman Smyser invited the Page, **Daniel Kelley**, to approach the podium. He shared with the Committee that he decided to be a Page because his sister was one last year and he thought it looked fun. He said he knew **Senator Heider** as a counselor so he asked him to be his sponsor. He also did Boys State last year and thought this would fit right in. **Vice Chairman Smyser** asked him about his future plans, and he said he will do his first two years at College of Southern Idaho, and after that he would like to go to chef school at Cordon Bleu Paris.

Senator Vick asked him what he plans to study. **Mr. Kelley** said he would like to work toward a couple of technical licenses, like a heavy equipment and a mechanical technical degree, so in case cooking doesn't work out, he has something to fall back on. **Vice Chairman Smyser** thanked **Mr. Kelley** for his service in the Senate and the Agricultural Affairs Committee and presented him with a Page Senate Watch and letters of recommendation.

MINUTES The Committee reviewed the minutes of the Agricultural Affairs Committee Meeting of March 13, 2012. **Senator Bock** moved, seconded by **Senator Pearce**, to approve the minutes as submitted. Motion carried by **voice vote**.

H611 **Vice Chairman Smyser** invited **Heather Cunningham**, Private Property Law Attorney with Davison, Copple, Copple & Copple, to the podium to present H611, relating to livestock liens and the sale of certain livestock at public auction. She shared that in January, she had a client who was owed \$5,000 for overdue horse boarding fees. It came to her attention as she prepared that case that there isn't much of a market for horses in livestock auctions in this state anymore.

Ms. Cunningham said in these types of cases, typically one will sell the property, in this case a horse, at a licensed public livestock auction market. She called around the state and was only able to find two that will sell horses at all, one in Twin Falls and one in Lewiston, but they are only held periodically, once or twice a year in the summer. So, if someone is owed board or pasture fees, and they need to sell the animals to get paid, it is not realistic to have to wait and then haul an animal. She described it as a statewide problem, as there are many animals that are pastured, and the price of hay has been going up.

There is a problem of more and more people walking away from their responsibilities, thus leaving someone holding the bag who cannot take legal possession of the animal, sell the animal and move on. **Ms. Cunningham** said she discussed with the State Brand Inspector, **Larry Hayhurst**, about how the statute needed to be updated.

She said his suggestion for a solution was to use a public auction as an option, but still allow auction market when available. The idea is people use public auctions to sell off items left in a storage unit or apartment or even if someone walks away from their home. If there are other animals other than horses, such as sheep or cows, they can probably still use the public livestock auction market, because they get higher prices and they wouldn't need to pay for the cost of conducting the auction.

Ms. Cunningham said for practical matters, this bill does nothing to take away any of the existing procedures. All it does is fix the problem for horses in remote areas where people don't have access to livestock auction markets. She said, it's an easy fix, as all it does is drop out three words in two locations and that's it.

Representative Judy Boyle agreed to sponsor it in the House.

Senator Schmidt said the Statement of Purpose describes this bill as being directed toward boarding horses, but the language of the bill makes it appear other livestock could be addressed as well.

Ms. Cunningham said yes, that is true. People would need to go through the auction advertising fees and costs and procedures and all that, so as a practical matter and through discussions with other lobbying groups, although it applies to livestock, it probably wouldn't happen. She said she hopes that while that is a fair point, she hopes it doesn't keep him from voting for the bill. **Senator Schmidt** said no, that won't keep him from voting for the bill.

Ms. Cunningham said she did run it by all the interested parties she could think of, including Idaho Wool Growers, Idaho Cattlemen's Association, Idaho Horse Council, Idaho Farm Bureau, and the Idaho Auction Association, and no one had any objections or problems, and there has been no opposition. **Ms. Cunningham** also reminded the Committee she provided a letter from **Larry Hayhurst** of the Idaho Brand Board. Supporting documents related to this testimony have been archived and are accessible in the office of the Committee Secretary. (See Attachment #1.)

Senator Pearce asked about the requirements of public auction, like who runs it, who advertises it, how does it run, and if it is like a repossession by the Sheriff.

Ms. Cunningham referred the Committee to page two, where it outlines the procedures, of giving notice ten days in advance to include time, place, and date, person who has the lien, name of owner, number and breed of the livestock, and then send notices, by personal service or registered mail, and conducting the auction either by having a sheriff or an auctioneer, or anyone who would conduct the auction, as long as they follow procedure. It would be the same as selling property at a foreclosure sale.

Senator Pearce stated he can see what is trying to be accomplished, but his concern is that someone who has a pasture dispute over a hundred head of cattle or something, who might be able to quietly advertise or put it out there quietly and then do it, that would diminish the value, because there are a lot of buyers at a public auction yard. He said the other question is about his understanding that the Emmett yard sells horses, noting he didn't realize Caldwell didn't, and he would be surprised if Jerome didn't.

Ms. Cunningham said that was not what she found in her research when she called in January to Caldwell and Emmett and they said they would not sell horses. She said her recollection of other statute for requirements for public auction is that notice has to be published three times, and it can't be done on the QT.

She said she spoke with the Brand Inspector and they discussed that if someone has an animal they want to get rid of, they will want to get the best price they can for that animal. So, if they have the option of going to public livestock auction market, where there are buyers, they would do that.

The problem is that sometimes one can't even get \$100 for a horse anymore, and people pay \$240 per ton of hay.

Senator Pearce said his concern is by allowing this, they're allowing for other animals that are pastured, and that could leave the door open for mischief. He said he may be seeing ghosts here, but he worries that in trying to take care of a one or two horse problem, it may impact an entire industry. **Ms. Cunningham** said she understands what **Senator Pearce** is saying, and she certainly would not advocate a public policy change if she didn't think it were a statewide and significant problem. She said she was able to get the man in the case in January to pay, but that unfortunately is not always possible, saying it's not just a one or two horse problem, but there are many, many people around the state and thousands of horses having a problem.

She said although the amendment applies to livestock, there is an incentive to use the market whenever possible, and she doesn't think this bill does any damage to that. She said she is not the policy maker, and would be open to any suggestions of better ways to do it, but the problem now is that people are abandoning horses or not able to recover money or legally sell them, so they're sitting in limbo, and if something is not done, the problem will be overlooked. This statute has been around since the 1890s and needs to be updated.

Vice Chairman Smyser asked if **Ms. Cunningham** looked at legislation in other states. **Ms. Cunningham** answered she is not aware of any other amendments for this in other states, but she said she does know this problem exists in other states and they are looking for solutions, but she hasn't seen any specific legislation.

Senator Corder said he was following the thought process of **Senator Pearce** about having 100 cows boarded in someone's pasture, that the same process would have to be followed, so those 100 cattle would have to be noticed and go through the whole thing, and then he would have to haul them to a licensed public livestock auction market. He was trying to see if he missed **Senator Pearce's** point, but it would seem that the change doesn't affect that process at all.

Ms. Cunningham said she believed that is correct, and as long as someone has the option, and that's where they'll make the most money, and for ungulates there is a great market. Someone does have to give notice to the owner and to others, and publicly advertise it, so no one can just sell them to their best friend across the pasture.

Senator Schmidt said on line 17, public notice is required, so if it is a substantial sale with significant interest, one would hope a lot of people would want to be there to buy. **Ms. Cunningham** said thank you.

Vice Chairman Smyser invited **Wally Butler**, Range and Livestock Specialist for the Idaho Farm Bureau, to the podium to offer his thoughts. He spoke in support of H611. He said they reviewed this bill and they're very comfortable with it. He said they discussed valid concerns like **Senator Pearce** expressed, but the Idaho Farm Bureau believes they are covered in this bill.

MOTION

Senator Schmidt moved, seconded by **Senator Pearce**, to move H611 to the floor with a do pass recommendation. Motion carried by **voice vote**.

ADJOURNED

Vice Chairman Smyser called the meeting adjourned at 8:25 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary